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International Court of Justice

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Official Transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain, and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 7 January 1946, 1000-1245, Lord Justice Lawrence, presiding.

COLONEL TELFORD TAYLOR: May it please the Court, Sir, when the Court rose on Friday I had completed that part of the presentation on Counts 1 and 2. I now turn to that part of the indictment which charges that the General Staff and High Command group had a major responsibility for the war crimes and crimes against humanity involved in the execution of the common plan or conspiracy set forth in Counts 3 and 4 of the indictment. For purposes of brevity I shall refer to these crimes simply as war crimes.

The presentation of the documents under this part of the case should take all or the better part of the morning session. At the conclusion of that, I propose to call a single witness, one witness, Erich von dem Bach-Zelewski, whose testimony on direct examination should not exceed 25 or 30 minutes. After that, I shall take possibly ten minutes to conclude, and that will be the entire presentation.

On this part of the case I propose to show that members of the General Staff and High Command group, including the defendants who are members of the group, ordered and directed the commission of war crimes, and thereby participated in the commission of war crimes in their official capacity as members of the group. I also propose to show in certain instances the actual commission of war crimes by members of the German armed forces as a result of these orders or as a result of other orders and arrangements made by members of the General Staff and High Command group which controlled the German armed forces. However, I do not propose to make a full showing of war crimes committed by the German armed forces. The full presentation of the evidence under Counts 3 and 4 will be made pursuant to agreement among the chief prosecutors, by the French and Soviet delegations, and a substantial amount of the evidence to be presented by them will be relevant to the charges against the General Staff and High Command group.

We will at this time show the Tribunal that the General Staff and

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High Command became wedded to a policy of terror. In some cases, the evidence of this policy is in documentary form and we will present the activating papers which were signed by, initialed by, and circulated among the members of the group. In other instances, where the actual crimes were committed by others than members of the German armed forces, where, for example, prisoners of war were handed over to and mistreated by the SS or SD, we will show that in those cases members of this group were well aware that they were assisting in the commission of war crimes. We will show that many crimes committed by the SS and SD were committed with the knowledge and necessary support of the General Staff and High Command group.

The first matter which I will take up relates to the killing, and violation of International Law and the rules of war, of allied commandos, paratroopers, and members of military missions, and the first document to which I wish to refer is 498-PS, which will be U.S. 501.

This story starts with the order embodied in that document, which is an order issued by Hitler on 18 October 1942, and which Mr. Storey has already mentioned in the presentation of charges against the Sicherheitsdienst. The order begins with a recital that allied commandos were using methods of warfare alleged to be outside the scope of the Geneva Convention, and thereafter proceeds to specify the methods of warfare which German troops should use against allied commandos, and the disposition which should be made of captured commandos.

This order is one of the two basic documents in the story. I will read it in full:

"1. For some time our enemies have been using in their warfare methods which are outside the international Geneva Conventions. Especially brutal and treacherous is the behavior of the so-called Commandos, who, as is established, are partially recruited even from freed criminals in enemy countries. From captured orders it is divulged that they are directed not only to shackle prisoners, but also to kill defenseless prisoners on the spot at the moment in which they believe that the latter as prisoners represent a burden in the further pursuit of their purposes or could otherwise be a hindrance. Finally, orders have been found in

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which the killing of prisoners has been demanded in principle.

"2. For this reason it was already announced in an addendum to the Armed Forces report of 7 October 1942 that in the future Germany, in the face of these sabotage troops of the British and their accomplices, will resort to the same procedure, that is, that they will be ruthlessly mowed down by the German troops in combat, wherever they may appear.

"3. I therefore order:

"From now on all enemies on so-called Commando missions in Europe or Africa challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, whether armed or unarmed, in battle or in flight, are to be slaughtered to the last man. It does not make any difference whether they are landed from ships and airplanes for

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their actions, or whether they are dropped by parachute. Even if these individuals, when found, should apparently be prepared to give themselves up, no pardon is to be granted them on principle. In each individual case full information is to be sent to the OKW for publication in the Report of the Military Forces.

"4. If individual members of such commandos, such as agents, saboteurs, etc, fall into the hands of the military forces by some other means, through the police in occupied territories, for instance, they are to be handed over immediately to the SD. Any imprisonment under military guard, in PW stockades, for instance, etc., is strictly prohibited, even if this is only intended for a short time.

"5. This order doesnot apply to the treatment of any enemy soldiers who, in the course of normal hostilities, large-scale offensive actions, landing operations and airborne operations, are captured in open battle or give themselves up. Nor does this order apply to enemy soldiers falling into our hands after battles at sea, or enemy soldiers trying to save their lives by parachute after battle.

"6. I will hold responsible under Military Law, for failing to carry out this order, all commanders and officers who either have neglected their duty of instructing the troops about this order, or acted against this order where it was to be executed."

It is signed Adolph Hitler, and the Tribunal will note that this order was issued by OKW in 12 copies, and the distribution shown on the second page included the three supreme commands, army, sea, and air, and the principal field commands.

Now, the same day Hitler issued a supplementary order, that is, Document 503-PS, which will be U.S. 542. This was issued for the purpose of explaining the reasons why the basic order was issued. In this explanation, Hitler gave a rather different set of reasons for the issuance of the order and pointed out that allied commando operations had been extraordinarily successful in the destruction of rear communications, intimidating laborers, and destroying important war plants in occupied areas. This is the other basic document, and while I need not

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read it in full, I would like to read substantial excerpts, starting with the first paragraph at the top of the page:

"Added to the decree concerning the destruction of terror and sabotage troops"--then in parentheses was a cross reference to the order which I have just read--"a supplementary order of the Fuehrer is enclosed.

"This order is intended for commanders only and must not under any circumstances fall into enemy hands.

"The further distribution is to be limited accordingly by the receiving bureaus.

"The bureaus named in the distribution list are held responsible for the return and destruction of all distributed pieces of the order and copies made thereof."

It is signed, "The Chief of the High Command of the Armed Forces, by order of Jodl."

Thereafter follows a distribution list, and then the supplementary order itself, signed by Hitler. I will start reading the first two paragraphs of the supplementary order which appears at the bottom of page 1 of the translation:

"I have been compelled to issue strict orders for the destruction of enemy sabotage troops and to declare non-compliance with these orders severely punishable. I deem it necessary to announce to the competent commanding officers and commanders the reasons for this decree.

As in no previous war, a method of destruction of communications behind the front, intimidation of the populace working for Germany, as well asthe destruction of war-important industrial plants in territories occupied by us has been developed in this war."

I propose to skip to the bottom of page 2, the last two paragraphs on page 2 of the translation:

"The consequences of these activities are of extraordinary weight. I do not know whether each commander and officer is cognizant of the fact that the destruction of one single electric power plant, for instance, can deprive the Luftwaffe of many thousand tons of aluminum,

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thereby eliminating the construction of countless aircraft that will be missed in the fight at the front and so contribute to serious damage of the Homeland as well as bloddy losses of the fighting soldiers.

"Yet this form of war is completely without danger for the adversary. Since he lands his sabotage troops in uniform but at the same time supplies them with civilian clothes, they can, according to need, appear as soldiers or civilians. While they themselves have orders to ruthlessly remove any German soldiers or even natives who get in their way, they run no danger of suffering really serious losses in their operations, since at the worst, if they are caught, they can immediately surrender and thus believe that they will theoretically fall under the provisions of the Geneva Convention. There is no doubt, however, that this is a misuse in the worst form of the Geneva agreements, especially since part of these elements are even criminals, liberated from prisons, who can rehabilitate themselves through these activities.

"England and America will therefore always be able to find volunteers for this kind of warfare, as long as they can truthfully assure them that there is no danger of loss of life for them. At worst, all they have to do is to successfully commit their attack on people, traffic installations, or other installations, and upon being encountered by the enemy, to capitulate.

"If the German conduct of war is not to suffer grevious damage through these incidents, it must be made clear to the adversary that all sabotage troops will be exterminated, without exception, to the last man.

"This means that their chance of escaping with their lives is nil. Under no circumstances can it be permitted, therefore, that a dynamite, sabotage, or terrorist unit simply allows itself to be captured, expecting to be treated according to rules of the Geneva Convention. It must under all circumstances be ruthlessly exterminated.

"The report on this subject appearing in the Armed Forces communique will briefly and laconically state that a sabotage, terror, or destruction unit has been encountered and exterminated to the last man.

"I therefore expect the commanding officers of armies subordinated to

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them as well as individual commanders not only to realize the necessity of taking such measures, but to carry out this order with all energy. Officers and non-commissioned officers who fail through some weakness are to be reported without fail, or under circumstances when there is danger in delay to be at once made strictly accountable. The Homeland as well as the fighting soldier at the front has the right to expect that behind their back the essentials of nourishment as well as the supply of war-important weapons and ammunition remains secure.

"These are the reasons for the issuance of this decree.

"If it should become necessary, for reasons of interrogation, to

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initially spare one man or two, then they are to be shot immediately after interrogation."

Your Lordship, the next is document C-179 which will be US 543. As this document shows, ten days later, on 28 October 1942, and while the Defendant Raeder was Commander-in-Chief of the German Navy, the Naval War Staff in Berlin transmitted its copy of the basic order of 18 October to the lower naval commands. The copy distributed by the Navy and the covering memorandum from the Naval War Staff show clearly the secrecy which surrounded the dissemination of this order, and I read the first sheet of this document only, the cover sheet:

"Enclosed please find a Fuehrer order regarding annihilation of terror and sabotage units. This order must not be distributed in writing by flotilla leaders, section commanders or officers of this rank. After verbal distribution to subordinate sections, the above authorities must hand [illegible] over to the next highest section, which is responsible for [illegible] and destruction."

Passing over to page three of this document, at the very end we find a similar admonition in the notice for distribution at the very end of the document. I read:

"These instruction are not to be distributed over and above the battalions and the corresponding staffs of the other services. After notification those copies distributed over and above the regimental and corresponding staffs of the other services must be withdrawn and destroye

The next document, your Lordship, is C-178, which becomes USA 544. This document is dated 11 February, 1943, which was twelve days after the Defendant Doenitz had become Commander in Chief of the German Navy. On that day, this memorandum was circulated within the Naval War Staff in order to clear up certain misunderstandings as to the scope of the basic order of 18 October 1942. This document, of which I will read the first four paragraphs, indicates why the earlier order had been treated as such a secret matter and also directs that all naval commanders and officers

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who failed to carry out the order or to instruct their units concerning the order would run the risk of serious court martial penalties. I'll read the first four paragraphs only:

"From the notice given by the Naval War Staff on February 1, 1943, it has been discovered that the competent departments of the General Staff of the Army, as well as those of the Air Force Operations Staff, have a wrong conception regarding the treatment of saboteurs. A telephone inquiry at the Naval War Staff proved that this naval authority was not correctly informed either.

"In view of this situation, reference is made to paragraph 6 of the Fuehrer's order of October 18, 1942..." and then a cross-reference-- " "according to which all commanders and officers who have neglected their duty in instructing their units about the order referring to treatment of saboteurs are [illegible] with punishment by court martial.

"The latter Fuehrer order concerning this matter of October 18, 1942 was given the protection of Top Secret merely because it stated therein (1) that according to the Fuehrer's views, the spreading of military sabotage organizations in the East and West may have pretentious consequences for our whole conduct of the war and (2) that the shooting of uniformed saboteurs acting on military orders must be carried out even after they have surrendered voluntarily and asked for pardon.

"On the other hand, the annihilation of sabotage units in battle is no at all to be kept secret, but, on the contrary, to be currently published in the OKW reports. The purpose of these measures to act as a deterrent will not be achieved if those taking part in enemy commando operations would not learn that certain death and not safe imprisonment awaits them. As the saboteurs are to be annihilated immediately unless their statements are first needed for military reasons, it is necessary that, not only all members of the armed forces must receive instructions that these types of saboteurs, even if they are in uniform, are to be annihilated, but also, all departments of the Home Staff dealing with this kind of question must be informed of the course of action which has been ordered."

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I'll call the Tribunal's attention to the two reasons given in that quotation showing a clear awareness that public knowledge of the fact that uniformed prisoners would be shot even after they had surrendered and asked for pardon shows a clear awareness that that was in direct contravention of the Hague and Geneva Conventions.

THE PRESIDENT: Colonel Taylor, did you read the paragraph beginning "Practical difficulties--"?

COLONEL TAYLOR: No, Your Honor. I'll read that.

THE PRESIDENT: I think you should

COLONEL TAYLOR: Continuing the document:

"Practical difficulties may develop because of the definition of the term 'sabotage units'. The annihilation and destruction according to Paragraph 5 of the Fuehrer order of October 18, do not apply to troops participating in large-scale landing operations and large-scale air-borne operations. The criterion is to be found in that in the latter case an open battle takes place, whereas, for instance, ten or more people who land by sea or air or drop by parachute not to fight an open battle but to destroy either a factory, a bridge or a railway installation would fall into the category of those who must be annihilated."

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7 Jan-[illegible]-JH-1.

The next document, your Honor, is 508-PS, which will be US 545. Now, the Hitler order of 18 October 1942 was actually carried out in a number of instances, of which we have the documentary proof for several. Document 508 PS shows that during the night of 19-20 November 1942 a British freight glider crashed near Egersund. The glider carried a British commando unit of 17 men, of which three were apparently killed in the crash. All were in uniform. Fourteen survivors were executed in accordance with the Hitler order the evening of 20 November. In proof of this I will read certain extracts from 508 PS, beginning on page 1 of the translation, the paragraph numbered (1):

"1) Following supplementary report is made about landing of a British freight glider at Hegers and in the night of --"

It reads November 11 in the translation, but I believe in the original it was November 20; that is a typographical error.

"a) No firing on the part of German defense.

"b) The towing plane (Wellington) has crashed after touching the ground; 7 man crew dead. The attached freight glider also crashed; of the 17-man crew 14 alive. Indisputably a sabotage force. Fuehrer order has been carried out."

I pass to page 3 of the translation, on which page appear two teletype messages. I wish to read the first two paragraphs at the top of that page.

"On November 20, 1942 at 5:50 an enemy plane was found 15 KM NE of Egersund. It is a British aircraft (towed glider) made of wood without engine. Of the 17 member crew three are dead, six are severely, the others are slightly wounded.

"All wore English khaki uniforms without sleeve-insignia. Furthermore, following items were found; 8 Knapsacks, tents, skis and radio sender, exact number is unknown. The glider carried rifles, light machine guns and machine pistols, number unknown. At present the prisoners are with the Battalion in Egersund."

Passing to the second teletype message, the first paragraph:

"Beside the 17 member crew extensive sabotage material and work

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equipment were found. Therefore the sabotage purpose was absolutely proved. The 280th Infantry Division (J.D.) ordered the execution of the action according to the Fuehrer's order. The execution was carried out toward the evening of November 20. Some of the prisoners wore blue ski-suits under their khaki uniforms which had no insignia on the sleeves. During a short interrogation the survivors have revealed nothing but their names, ranks and serial numbers."

I pass to the last paragraph of that teletype at the foot of page 3 of the translation:

"In connection with the shooting of the 17 members of the crew, the Armed Forces Commander of Norway has issued an order to the district commanders, according to which the interrogations by G-2--" That was Ic in the German -- "and by BDS" -- police -- "are important before the execution of the Fuehrer order; in case of Paragraph No. 4 of the Fuehrer order the prisoners are to be handed over to the BDS."

Your Lordship, the next document is 512-PS, US 546. This document recites three specific instances where the Hitler order was carried out in Norway and especially emphasizes the desirability of taking individual commandos prisoner for interrogation. I read from Document 512-PS, dated 13 December 1942:

"According to the last sentence of the Fuehrer order of 18th October, individual saboteurs can be spared for the time being in order to keep them for interrogation. The importance of this measure was proven in the cases of Glomfjord, Twoman torpedo Drontheim, and glider plane Stavanger, where interrogations resulted in valuable knowledge of enemy intentions. Since in the case of Egersund the saboteur was liquidated immediately and no clues were won; therefore, Armed Forces Commander referred to above mentioned last sentence of the Fuehrer order calling for liquidation only after short interrogation."

One final document from the Norwegian theater of war is relative.

THE PRESIDENT: Colonel Taylor, what does the R C cross mean, "R C" in the last paragraph? The first words of the last paragraph?

COLONEL TAYLOR: Rote Kreuz, Red Cross.

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THE PRESIDENT: It means the Red Cross?

COLONEL TAYLOR: Yes, sir.

THE PRESIDENT: So they had a protest from the Red Cross?

COLONEL TAYLOR: Yes, sir.

THE PRESIDENT: And "BDS"?

COLONEL TAYLOR: That is "Befehlshaber der SIPO.

526 PS, which is US 502. This document, dated 10 May 1943, Colonel Storey has already brought to the Tribunal's attention in connection with the presentation against the Sicherheitsdienst.

"On the 30.3.1943 in Toftefjord, an enemy cutter was sighted; cutter was blown up by the enemy. Crew: 2 dead men, 10 prisoners.

"Cutter was sent from Scalloway (Shetland Is.) by the Norwegian Navy."

Passing to the word "Purposes":

"Construction of an organization for sabotaging of strong-points, battery positions, staff and troop billets and bridges.

"Assigner of Mission in London: Norwegian, Major Munthe.

"Fuehrer order executed by S. D. (Security service).

"Wehrmacht Report of 6.4 announces the following about it:

"'In Northern Norway an enemy sabotage unit was engaged and destroyed on approaching the coast.'"

Now, shifting to the Italian theater of war, I call the Court's attention to 509-PS, which will be US 547. This document is dated 7 November 1943 , and is a telegram from the Supreme Commander in Italy to OKW, and it shows that on 2 November 1943 three British commandos, taken prisoner near Pascara in Italy, were given "special treatment" -- sonder-behandelt, which as the Court knows from previous evidence in the case, meant death. What happened to the nine remaining prisoners of war in the hospital, we do not know.

I have one more document from the Italian theater, 2610-PS, US 548. This specifically shows the carrying out of the Hitler order. It consists of an affidavit dated 7 November 1945 by

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Frederick W. Roche, a Major in the Army of the United States. Major Roche was the Judge Advocate of an American Military Commission which tried General Anton Dostler, formerly commander of the 75th German Army Corps, for the unlawful execution of fifteen members of the United States Armed Forces. I will read from this affidavit:

"Frederick W. Roche being duly sworn deposes and says:

"I am a Major in the Army of the United States.

"I was the Judge Advocate of the Military Commission which tried Anton Dostler for ordering the execution of the group of fifteen United States Army personnel who comprised the 'Ginny Mission.' This Military Commission consisting of five officers was appointed by command of General McNarney, by Special Orders No. 269, dated 26 September 1945, Headquarters, Mediterranean Theater of Operations, United States Army, APO 512.

"The Military Commission met at Rome, Italy, on 8 October 1945 and proceeded with the trial of the case of the United States v. Anton Dostler. The trial of this case consumed four days and the findings and sentence were announced on the morning of 12 October 1945. The charge and specification in this case are as follows:

"Charge: Violation of the law of war.

"Specification: In that Anton Dostler, then General, commanding military forces of the German Reich, a belligerent enemy nation, to wit the 75th Army Corps, did, on or about 24 March 1944 in the vicinity of La Spezia, Italy, contrary to the law of war, order to be shot summarily, a group of United States Army personnel consisting of two officers and thirteen enlisted men who had then recently been captured by forces under General Dostler, which order was carried into execution on or about 26 March 1944, resulting in the death of the said fifteen members of the Army of the United States identified as follows:" --and a list of names follows.

"I was present throughout the entire proceeding. I heard all the testimony, and I am familiar with the record in this case. The facts developed in this proceeding are as follows: On the night of 22 March 1944, two officers and thirteen enlisted men of the 2677th Special Reconnaissance Battalion of the Army of the United States disembarked from some United State

Navy Boats and landed on the Italian coast near Stasione di Framura. When they landed on the Italian coast they were all properly dressed in the field uniform of the United States Army and they carried no civilian clothes. Their mission was to demolish a railroad tunnel on the main line between La Spezia and Genoa. That rail line was being used by the German Forces to supply their fighting forces on the Cassino and Anzio Beachhead fronts. The entire group was captured on the morning of 24 March 1944 by a patrol consisting of Fascist soldiers and a group of members of the German Army. All fifteen men were placed under interrogation in La Spezia and they were held in custody until the morning of 26 March 1944 when they were all executed by a firing squa These men were never tried nor were they brought before any court or given any hearing; they were shot by order of Anton Dostler, then General Commanding the 75th German Army Corps.

Anton Dostler took the stand in this case and testified by way of defense that he ordered the fifteen American soldiers to be shot pursuant to the Hitler order of 18 October 1942 on commando operations, which provided that commandos were to be shot and not taken prisoners of war, even after they had been interrogated. He also testified that he would have been subject to court-martial proceedings if he did not obey the Hitler order.

The following is a true copy of the findings and sentence in the case of the United States v. Anton Dostler, as these findings and sentence appear in the original record of the trial and as they were announced in open court at Rome, Italy on 12 October 1945:

"FINDINGS: General Dostler, as president of this commission it is my duty to inform you that the commission in closed session and upon secret written ballot, at least two-thirds of all the members of the commission concurring in each finding of guilty, finds you of the specification and of the charge: Guilty.

SENTENCE: And again in closed session and upon secret written ballot, at least two-thirds of all the members of the commission concurring, sentences you:

TO BE SHOT TO DEATH BY MUSKETRY."

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The order of 18 October 1942 remained in force, so far as we know, until the end of the war. I wish to offer 506-PS, which will be U.S. 549. This document is dated 22 June 1944. It is initialed by Warlimont, andin it the OKW made it clear that the Hitler order was to be applied even in cases where the commando operation was undertaken by only one person. I will read the single paragraph of the order:

"The Operations Staff agrees with the view taken in the letter of the Army Group Judge to the Supreme Commander Southwest of May 20, '44. The Fuehrer order is to be applied even if the enemy employ only one person for a task. Therefore, it does not make any difference if several persons or a single person take part in a commando operation. The reason for the special treatment of participants in a commando operation is that such operations do not correspond to the German concept of usage and customs of (land) warfare."

The Allied landing in Normandy early in June, 1944, in the course of which large-scale airborne operations to k place, raised among the Germans the questic as to how far the Hitler order would be applied in Normandy, and in France behind the German lines. I direct the Court's attention to Document 531-PS, which will be U.S. 550. The memorandum is dated 23 June 1944 and is signed by Warlimont. Warlimont's memorandum starts by quoting a teletype from the Supreme Command in the West, inquiring what should be done about applying the Hitler order to airborne troops and commandos.

I would like to read a small part of the teletype, beginning at the beginning:

"Supreme Command West reports by teletype message Top Secret 23 June 1944:

"The treatment of enemy commando groups has so far been carried out according to the order referred to." (If I may interpolate here, the order referred to is shown in the cross-reference to the order of the Fuehrer of 18 October 1942.)

"With the large-scale landing achieved, a new situation has arisen. The order referred to directs in paragraph 5 that enemy soldiers who are taken prisoner in open combat or surrender within the limits of normal combat operations

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(such as large-scale landing operations and undertakings) are not to be treated according to paragraphs 3 and 4. It must be established in a form easily understood by the troops how far the concept 'within the limits of normal combat operations' is to be extended."

Then I pass down to sub-paragraph D and read the first sentence of that sub-paragraph.

THE PRESIDENT: I think you ought to read the latter part of "C".

COL. TAYLOR: Your Honor, I think it is all summarized in the one sentence.

THE PRESIDENT: The last sentence is the one that I mean.

COL. TAYLOR: "Considerable reprisals against our own prisoners must be expected if its contents become known."

Then, continuing on with "D":

"The application of number 5 for all enemy soldiers in uniform penetrating from the outside into the occupied Western areas is held by the Supreme Command West to be the most correct and clearest solution."

Accordingly, as it is there shown, the Supreme Command in the West directed that paragraph 5, which is the paragraph under which the orders for execution are not to be applied, should be utilized in the West.

At the foot of the page is the position taken by the Armed Forces Operational Staff, the recommendation they were making:

"1. The commando order remains basically in effect even after the enemy landing in the West.

2. Number 5 of the order is to be clarified to the effect that the order is not valid for those enemy soldiers in uniform, who are captured in open combat in the immediate combat area of the beachhead by our troops committed there, or who surrender. Our troops committed in the immediate combat area means the divisions fighting on the front line as well as reserves up to and including Corps Headquarters.

3. Furthermore, in doubtful cases, enemy personnel who have fallen into our hands alive are to be turned over to the SD, upon whom it is encumbent to determine whether the commando order is to be applied or not.

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4. Supreme Command West is to see to it that all units committed in its zone are orally acquainted in a suitable manner with the order concerning the treatment of members of commando undertakings of 18 October '42 along with the above explanation."

The final document on this episode, or inquiry, is 551-PS, which becomes U.S. 551. This is the actual order of 25 June 1944, constituting OKW's reply to the inquiry from the Supreme Command West, signed by Keitel, initialed by Warlimont and Jodl. We will read beginning with:

"Subject: Treatment of Commando Participants.

1. Even after the landing of Anglo-Americans in France, the order of the Fuehrer on the destruction of terror and sabotage units of 18 October 1942 remains fully in force.

Enemy soldiers in uniform in the immediate combat area of the bridgehead, that is, in the area of the divisions fighting in the most forward lines as well as of the reserves up to the Corps Commands, according to No. 5 of the basic order of 18 October 1942, remain exempted.

2. All members of terror and sabotage units, found outside the immediate combat area, who include fundamentally all parachutists, are to be killed in combat. In special cases, they are to be turned over to the SD.

"3. All troops, committed outside the combat area of Normandy, are to be informed about the duty to destroy enemy terror and sabotage units briefly and succinctly according to the directives issued for it.

"4. Supreme Commander West will report immediately daily, how many saboteurs have been liquidated in this manner. This applies especially also to undertakings by the military commanders. The number is to be published daily in the Armed Forces Communique to exercise a frightening effect, as had already been done toward previous commando undertakings in the same manners".

Your Lordship, there is one further development in connection with this order, this basic order, that was that in July, 1944, the question was raised within the German High Command as to whether the order should be

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applied to members of foreign military missions with special regard to British, American and Soviet military missions which were cooperating with Allied Forces in South-eastern Europe, notably in Jugoslavia. A long document signed by Warlimont, which is 1279-PS, and becomes U.S. 552, embodies the discussions which were had at OKW. I think I need not read from this document, and merely wish to point out that the Armed Forces Operational Staff recommended that the order should be applied to these military missions and drew up a draft to this effect. I would, however, like to read 537-PS, which is U.S. 553. This is the order which actually resulted from these discussions. It is dated 30 July 1944. I will read that in full.

"Subject: Treatment of members of foreign "Military Missions", captured together with partisans.

In the areas of the High Command Southeast and Southwest members of foreign so-called "Military Missions" (Anglo-American as well as Soviet-Russian) captured in the course of the struggle against partisans shall not receive the treatment as speculated in the special orders regarding the treatment of captured partisans. Therefore they are not to be treated as PW's but in conformity with the Fuehrer's order are the elimination of terror and sabotage troops of 18 October 1942.

"This order shall not be transmitted to other units of the Armed Forces via the High Commands and equivalent staffs and is to be destroyed after being made record.

"The Chief of the High Command of the Wehrmacht

"KEITEL."

Pursuant to this order, approximately 15 members of an Allied military mission to Slovakia were executed in January, 1945, as is shown by Document L-51, which is already in the record as U.S. 521, and which has been read in full by Lieutenant Harris. I will not read it again.

This concludes the presentation of documents with respect to the order of the 18th of October, 1942, and its subsequent enforcement and application. I can pass from here to another subject.

THE PRESIDENT: We will adjourn for ten minutes now.

(Whereupon a recess was taken from 1120 to 1130 hours).

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COL. TAYLOR: Your Lordship, the order I have just been discussing operated chiefly in the western theater of war. This was natural, since Germany occupied almost the entire western coast of Europe from 1940 until the end of the war, the last year of the war, and during that period land fighting in western Europe was largely limited to commando operations.

I want to pass now to the Eastern Front, where there was large-scale land fighting in Poland and the Soviet Union from 1941 on. Here the German forces were fighting among a hostile population and had to face extensive partisan activities behind their lines. I propose to show here that the activities of the German armed forces against partisans and other elements of the population became a vehicle for carrying out Nazi political and racial policies, and a vehicle for the massacre of Jews and numerous segments of the Slav population which were regarded by the Nazis as undesirables. I will show that it was the policy of the German armed forces to behave with the utmost severity to the civilian population of the occupied territories, and that its military operations, particularly against partisans, were so conducted as to advance the Nazi policies to which I have referred.

I will show that the armed forces supported, assisted, and acted in cooperation with the SS groups to which reference has been made in the presentation by Major Farr and Colonel Storey.

I do not plan to make a full or even partial showing of war crimes on the Eastern Front. That will be done by the Soviet delegation. Nor do I plan to retrace the ground covered by Colonel Storey and Major Farr during their presentation of the evidence against the SS, SD, and Gestapo, except to the extent necessary to clarify the relations between these organizations and the German armed forces, and to demonstrate their close collaboration in the occupied territories of Eastern Europe.

The first document to which I will make reference is Document C-50, which will be US 554, and it will show these policies of severity were determined upon and made official even before the invasion of the Soviet Union took place. This document consists of an order by Hitler, dated 13 May 1941, and two covering transmittal sheets of subsequent date. I ask the Tribunal to note on page 4 of the translation that the order is signed by Keitel, the Chief of the Supreme

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Command of the Armed Forces, and also to note the distribution, which appears at the foot of the second sheet, showing the distribution to the principal staff sections. The order itself begins on the third page, and that is where I propose to read. The document is entitled "Order concerning the exercise of martial jurisdiction and procedure in the area 'Barbarossa' and special military measures."

"The application of martial law aims in the first place at maintaining discipline.

The fact that the operational areas in the East are so far-flung, the battle strategy which this necessitates, and the peculiar qualities of the enemy, confront the courts-martial with problems which, being short-staffed, they cannot solve while hostilities are in progress, and until some degree of pacification has been achieved in the conquered areas, unless jurisdiction is confined, in the first instance, to its main task.

This is possible only if the troops take ruthless action themselves against any threat from the enemy population.

For these reasons I herewith issue the following order effective for the area Barbarossa (Area of operations, army rear area, and area of political administration):

I. Treatment of offences committed by Enemy Civilians.

1. Until further notice the military courts and the courts martial will not be competent for crimes committed by enemy civilians.

2. Guerillas should be disposed of ruthlessly by the military, whether they are fighting or in flight.

3. Likewise all other attacks by enemy civilians on the Armed Forces, its members and employees, are to be suppressed at once by the military, using the most extreme methods, until the assailants are destroyed.

4. Where such measures have been neglected or were not at first possible; persons suspected of criminal action will be brought at once before an officer. This officer will decide whether they are to be shot.

On the orders of an officer with the powers of at least a Battalion Commander, collective despotic measures will be taken without delay against localities from which cunning or malicious attacks are made on the

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Armed Forces, if circumstances do not permit of a quick identification of individual offenders.

5. It is expressly forbidden to keep suspects in custody in order to hand them over to the courts after the reinstatement of civil courts.

6. The C-in-Cs of the Army Groups may by agreement with the competent Naval and Air Force Commanders reintroduce military jurisdiction for civilians, in areas which are sufficiently settled.

For the area of the Political Administration this order will be given by the Chief of the Supreme Command of the Armed Forces.

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II. Treatment of offences committed against inhabitants by members of the Armed Forces and its employees.

1. With regard to offences committed against enemy civilians by members of the Wehrmacht and its employees prosecution is not obligatory even where the deed is at the same time a military crime or offence.

2. When judging such offences, it must be borne in mind, whatever the circumstances, that the collapse of Germany in 1918, the subsequent sufferings of the German people and the fight against National Socialism which cost the blodd of innumerable supporters of the movement, were caused primarily by Bolshevik influence and that no German has forgotten this fact.

3. Therefore the judicial authority will decide in such cases whether a disciplinary penalty is indicated, or whether legal measures are necessary. In the case of offences against inhabitants it will order a court martial only if maintenance of discipline or security of the Forces call for such a measure. This applies for instance to serious offences originating in lack of self control in sexual matters, or in a criminal disposition, and to those which indicate that the troops are threatening to get out of hand. Offences which have resulted in senseless destruction of billets or stores of other captured material to the disadvantage of our Forces should as a rule be judged no less severely.

The order to institute proceedings requires in every single case the signature of the Judicial Authority.

4. Extreme caution is indicated in assessing the credibility of statements made by enemy civilians.

III. Within their sphere of competence Military Commanders are personally responsible for seeing that:-

1. Every commissioned officer of the units under their command is instructed promptly and in the most emphatic manner on principles set out under I above.

2. Their legal advisers are notified promptly of these instructions and of verbal information in which the political intentions of the High Command were explained to C-in-Cs.

3. Only these court sentences are confirmed which are in accordance

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with the political intentions of the High Command.

IV. Security

Once the camouflage is lifted this decree will be treated as "Most Secret". End of Document.

Your Lordship, the next document will be C-148, US 555. Less than three months after the invasion of the Soviet Union, the instructions which I have just read were amplified and made even more drastic. Document C-148 is an order dated 16 September 1941, signed by Keitel, widely distributed, as is shown on the second sheet where the distribution is listed. This order is of general application in all theaters of war, but from its contents it is clearly of primary importance for the Eastern Front. I read beginning at the start of the order:

"Subject: Communist Insurrection in occupied territories.

"1. Since the beginning of the campaign against Soviet Russia, Communist insurrection movements have broken out everywhere in the area occupied by Germany. The type of action taken is growing from propaganda measures and attacks on individual members of the armed forces, into open rebellion and widespread guerilla warfare.

"It can be seen that this is a mass movement centrally directed by Moscow, who is also responsible for the apparently trivial isolated incidents in areas which up to now have been otherwise quiet.

"In viewof the many political and economic crises in the occupied areas, it must, moreover, be anticipated that nationalist and other circles will make full use of this opportunity of making difficulties for the German occupying forces by associating themselves with the Communist insurrection.

"This creates an increasing danger to the German war effort, which shows itself chiefly in general insecurity for the occupying troops, and has already led to the withdrawal of forces to the main centers of disturbance.

"2. The measures taken up to now to deal with the general insurrection movement have proved inadequate. The Fuehrer has now given orders that we take action everywhere with the most drastic means in order to crush

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the movement in the shortest possible time.

"Only this course, which has always been followed successfully throughout the history of the extension of influence of great peoples, can restore order.

"3. Action taken in this matter should be in accordance with the following general directions:

"a. It should be inferred, in every case of resistance to the German occupying forces, no matter what the individual circumstances, that it is of Communist origin.

" "b. In order to nip these machinations in the bud, the most drastic measures should be taken immediately on the first indication, so that the authority of the occupying forces may be maintained and further spreading prevented. In this connection it should be remembered that a human life in unsettled countries frequently counts for nothing, and a deterrent effect can be attained only by unusual severity. The death penalty for 50-100 Communists should generally be regarded in these cases as suitable atonement for one German soldier's life. The way in which sentence is carried out should still further increase the deterrent effect.

"The reverse course of action, that of imposing relatively lenient penalties, and of being content, for purposes of deterrence,

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with the threat of more severe measures, does not accord with these principles and should not be followed." End of quote.

Unless the Court desires the next read, I will pass to page 2, the very end of the document, paragraph No. 4:

"The commanding officers in the occupied territories are seeing to it that these principles are made known without delay to all military establishments concerned in dealing with Communist measures of insurrection." Signed "Keitel."

Your Lordship, the next document will have the number USA 556, and it has been given the number "D" --"D" as in David -- 411, and it is the last document in Document Book 2. It also has the designation UK 81. It is the last document in Document Book 2. This is a set of documents which includes a directive dated 10 October 1941, by Field Marshal von Reichenau, who was the Commander-in-Chief (Oberbefehlshaber) of the German 6th Army, then operating on the Eastern Front. Reichenau, who died in 1942, was therefore a member of the group as defined in the Indictment, and here is what he had to say. I begin reading at page 5 of the translation:

"Subject: Conduct of Troops in Eastern Territories."

"Regarding the conduct of troops towards the bolshevistic system, vague ideas are still prevalent in many cases. The most essential aim of war against the Jewish-bolshevistic system is a complete destruction of their means of power and the elimination of Asiatic influence from the European culture. In this connection the troops are facing tasks which exceed the one-sided routine of soldiering. The soldier in the eastern territories is not merely a fighter according to the rules of the art of war but also a bearer of ruthless national ideology and the avenger of bestialities which have been inflicted upon German and racially related nations.

"Therefore, the soldier must have full understanding for the necessity of a severe but just revenge on subhuman Jewry. The Army has to aim at another purpose, that is, the annihilation of revolts in the hinterland, which, as experience proves, have always been caused by Jews.

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"The combatting of the enemy behind the front line is still not being taken seriously enough. Treacherous, cruel partisans and unnatural women are still being made prisoners of war, and guerilla fighters dressed partly in uniforms or plain clothes and vagabonds are still being treated as proper soldiers and sent to prisoner-of-war camps. In fact, captured Russian officers talk even mockingly about Soviet agents moving openly about the roads and very often eating at German field kitchens. Such an attitude of the troops can only be explained by complete thoughtlessness, so it is now high time for the commanders to clarify the meaning of the present struggle.

"The feeding of the natives and of prisoners of war who are not working for the armed forces from army kitchens is an equally misunderstood humanitarian act, as is the giving of cigarettes and bread. Things which the people at home can spare under great sacrifices and things which are being brought by the command to the front under great difficulties should not be given to the enemy by the soldier, not even if they originate from booty. It is an important part of our supply.

"When retreating the Soviets have often set buildings on fire. The troops should be interested in extinguishing of fires only as far as it is necessary to secure sufficient numbers of billets. Otherwise, the disappearance of symbols of the former bolshevistic rule even in the form of buildings is part of the struggle of destruction. Neither historic nor artistic considerations are of any importance in the eastern territories.

"The command issues the necessary directives for the securing of raw materials and plants essential for war economy. The complete disarming of the civil population in the rear of the fighting troops is imperative considering the long and vulnerable lines of communication. Where possible, captured weapons and ammunition should be stored and guarded. Should this be impossible because of the situation, the weapons and ammunition will be rendered useless. If isolated partisans are found using firearms in the rear of the army, drastic measures are to be taken. These measures will be extended to that part of the population who were in a position to hinder or report the attacks. The indifference

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of numerous apparently anti-soviet elements which originates from a "Wait-and-see" attitude must give way to a clear decision for active collaboration. If not, no one can complain about being judges and treated as members of theSoviet system.

"The fear of the German counter-measure must be stronger than the threats of the wandering bolshevistic remnants. Being far from all political considerations of the future the soldier has to fulfill two tasks:

"1. Complete annihilation of the false bolshevistic doctrine of the Soviet State and its armed forces.

"2. The pitiless extermination of foreign treachery and cruelty and thus the protection of the lives of military personnel in Russia.

"This is the only way to fulfill our historic task to liberate the German people once for ever from the Asiatic-Jewish danger.

"Commander in Chief
"Signed von Reichenau, Field Marshal."

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The Tribunal will note the sheet immediately preceding Reichenau's order. That is Sheet Number 4 of the translation, which is a memorandum dated 28 October 1941, and which shows that Reichenau's order met with Hitler's approval and was thereafter circulated by order of the Commander-in-Chief of the German Army.

The Tribunal will also note from the first sheet, the very top sheet in the several ensuing, that Reichenau's order was thereafter circulated down to divisional level, and was received by the 12th Infantry Division on 27 November 1941.

These being the directives and policies prescribed by the German military leaders, it is no wonder that the Wehrmacht jointed in the monstrous behavior and activities of the SS and SD on the Eastern Front.

Mr. Storey described to the Tribunal the formation of units known as Einsatzgruppen by the SIPO and SD, which was sent out to operate in and behind the operational areas on the Eastern Front, in order to combat partisans and to cleanse and pacify the civilian population. Major Farr and Colonel Storey both presented to the Tribunal a large amount of evidence showing the manner in which these units operated.

I want to refer back very briefly to a few of these documents in order to trace the participation of the armed forces in those circumstances.

Colonel Storey read at length from 3012-PS, which is US 190, dated 19 March 1943, which is a directive from the Commanding Officer of one of these groups. This directive praised and justified such activities as the shooting of Hungarian Jews, shooting of children, and the total burning of villages, and directed that in order not to obstruct the procuring of slave labor for the German armament industry, "as a rule no more children will be shot."

Major Farr read also from R-102, which is US 470, a report covering the work of the Einsatzgruppen in the German occupied territories of the Soviet Union during the month of October 1941. This report states cynically on page 4: "Spontaneous demonstrations against Jewry followed by pogroms on the part of the population against the remaining Jews have not been recorded on account of the lack of adequate indoctrination.'

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It shows as clearly as the human eye can see that pacification and anti-partisan activity became mere code words for extermination of Jews just asmuch as "Weserubung" was the code word for the invasion of Norway and Denmark.

We have seen from the documents quoted a few moments ago that the German Army received some similar policies and directives. It only remains to show that in the field the Army and the SS worked hand in glove.

The Tribunal will recall the document quoted by Major Walsh, 1061-PS, already in evidence as US 275, which describes the destruction of the Warsaw Ghetto, and at this time I merely want to call attention to one paragraph of this document appearing at page 6 of the translation, page 6 of 1061-PS, the third paragraph from the bottom of the page, where the author of the document stresses the close cooperation between the SS and the Army. I read that one paragraph:

"The longer the resistance lasted, the tougher the men of the Waffen SS, Police and Wehrmacht became; they fulfilled their duty indefatigably in faithful comradeship and stood together as models and examples of soldiers. Their duty hours often lasted from early morning until late at night. At night, search patrols with rags wound round their feet remained at the heels of the Jews and gave them no respite. Not infrequently they caught and killed Jews who used the night hours for supplementing their stores from abandoned dug-outs and for contacting neighboring groups or exchanging news with them."

To the same general effect is Document R-135, US 289, which is a report dated 5 June 1943, by the German General Commissioner for Minsk. Major Farr read from this report, describing an anti-partisan operation in which 4500 enemies were killed, 500 suspected partisans, 59 Germans. The cooperation by the German Army is shown in the following excerpt, and I will begin reading at the bottom of page 3 of the translation:

"The figures mentioned above indicate that again a heavy destruction of the population must be expected. If only 492 rifles are taken from 4,500 enemy dead, this discrepancy shows that among these enemy dead were

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were numerous peasants from the country. The battalion Direwanger especially has a reputation for destroying many human lives. Among the 5,000 people suspected of belonging to bands, there were numerous women and children.

"By order of the Chief of Band-Combatting, SS Obergruppenfuehrer von dem Bach, units of the armed forces have also participated in the operation. SS Standartenfuehrer Kunze was in command of the armed forces detachments, among whom there were also 90 members from my office and from the District Commissariat Minsk-City. Our men returned from the operation yesterday without losses."

Then I need not read the rest of that. The next paragraph shows again the participation of the armed forces personnel.

SS Obergruppenfuehrer von dem Bach, referred to in this quotation, will be a witness later in the day, and in this connection I want to call the Court's attention to 1919-PS, US 170, which is Himmler's speech on October 4, 1943 to a gathering of SS Generals at Posen. In this speech Himmler mentioned the appointment of von dem Bach to be chief of all anti-partisan units, and I'd like to read one paragraph from page 3 of the document merely for purposes of identification of the witness:

"Chief of the Anti-partisan Units:

"In the meantime I have also set up the department of the Chief of the anti-partisan units. Our comrade SS Obergruppenfuehrer von dem Bach is Chief of the anti-partisan units. I considered it necessary for the Reichsfuehrer SS to be in authoritative command in all these battles, for I am convinced that we are best in a position to take action against

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this enemy struggle, which is a decidedly political one. Except where the units which had been supplied and which we had formed for this purpose were taken from us to fill in gaps at the front, we have been very successful."

There is one further document which has already been introduced from which I wish to read new material. That is L-180, which is already in evidence as USA 276. This is the report of Einsatzgruppe A covering the period up to 15 October 1941. I think the excerpts which I will read will make clear beyond doubt the participation of the German military leaders and armed forces in the activities of these Einsatzgruppen. I read first from Page 2 of the translation, the top of the page:

"Action-Group A, after preparing their vehicles for action proceeded to their area of concentration as ordered on 23 June 1941, the second day of the campaign in the East. Army Group North, consisting of the 16th and 18th Armies and Panzer-Group 4, had left the day before. Our task was to hurriedly establish personal contact with the commanders of the Armies and with the commander of the army of the rear area. It must be stressed from the beginning that co-operation with the Armed Forces was generally good, in some cases, for instance with Panzer-Group 4 under Colonel General Hoeppner, it was very close, almost cordial. Misunderstandings which cropped up with some authorities in the first days, were cleared up mainly through personal discussions."

That ends that particular extract. I read next a series of extracts of which the first is at the bottom of page 2, beginning with "similarly":

"Similarly, native anti-Semitic forces were induced to start pogroms against Jews during the first hours after capture, through this inducement proved to be very difficult. Following out orders, the Security Police was determined to solve the Jewish question with all possible means and most decisively. But it was desirable that the Security Police should not put in an immediate appearance, at least in the beginning, since the extraordinarily harsh measures were apt to stir even German circles. It had to be shown to the world that the native population itself took the first action by way of natural reaction against the suppression by Jews during several decades and against the terror exercised by the Communists during the preceding period."

Next I pass to Page 4 of the translation, about half way down the page,

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the middle of the first complete paragraph:

"After the failure of purely military activities such as the placing of sentries and combing through the newly occupied territories with whole divisions, even the Armed Forces had to look out for new methods. The Action-Group undertook to search for new methods. Soon, therefore, the Armed Forces adopted the experiences of the Security Police and their methods of combatting the partisans. For details I refer to the numerous reports concerning the struggle against the partisans."

I pass next to Page 6 under "Instigation of self-cleansing actions":

"Considering that the population of the Baltic countries had suffered very heavily under the government of Bolshevism and Jewry while they were incorporated in the USSR, it was to be exptected that after the liberation from that foreign government, they (that is, the population themselves) would render harmless most of the enemies left behind after the retreat of the Red Army. It was the duty of the Security Police to set in motion these self-cleansing movements and to direct them into the correct channels in order to accomplish the purpose of the cleansing operations as quickly as possible. It was no less important in view of the future to extablish the unshakable and provable fact that the liberated population themselves took the most severe measures against the Bolshevist and Jewish enemy quite on their own, so that the direction by German authorities could not be found out.

"In Lithuania this was achieved for the first time by partisan activities in Kowno. To our surprise it was not easy at first to set in motion an extensive pogrom against Jews. Klimatis, the leader of the partisan unit, mentioned above, who was used for this purpose primarily, succeeded in starting a pogrom on the basis of advice given to him by a small advance detachment acting in Kowno, and in such a way that no German order or German instigation was noticed from the outside. During the first pogrom in the night from 25 to 26 June, the Lithuanian partisans did away with more than 1,500 Jews, set fire to several Synagogues or destroyed them by other means and burned down a Jewish dwelling district consisting of about 60 houses. During the following nights about 2,300 Jews were made harmless in a similar way. In other parts of Lithuania similar actions followed the example of Kowno, though smaller and extending to

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the Communists who had been left behind.

"These self-cleansing actions went smoothly because the Army authorities who had been informed showed understanding for this procedure. From the beginning it was obvious that only the first days after the occupation would offer the opportunity for carrying out pogroms. After the disarmament of the partisans the self-cleansing actionsceased necessarily."

I pass to Page 10 of the translation, toward the bottom under "Other jobs of the Security Police":

"Occasionally the conditions prevailing in the lunatic asylums necessitated operations of the Security Police."

Passing to the next paragraph:

"Sometimes authorities of the Armed Forces asked us to clean out in a similar way other institutions which were wanted as billets. However, as interests of the Security Police did not require any intervention, it was left to the authorities of the Armed Forces to take the necessary action with their own forces."

I pass on to Page 17 of the translation, the paragraph at the top of the page:

"But it was --

THE PRESIDENT: Colonel Taylor, did you read paragraph 5 (1) on Page 10?

COLONEL TAYLOR: 5 (1) on Page 10. I read the first sentence. If you would like it in full --

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THE PRESIDENT: I think perhaps you might go to the end of it.

COLONEL TAYLOR: "Occasionally the conditions prevailing in the lunatic asylums necessitated operations of the Security Police. Many institutions had been robbed by the retreating Russians of their whole food supply. Often the guard and nursing personnel had fled. The inmates of the several institutions broke out and became a danger to the general security; therefore, in Aglona, 544 lunatics, in Mariampol, 109 lunatics, and in Magutowo, near Luga, 95 lunatics were liquidated."

Passing back to Page 17, the first paragraph on that page:

"When it was decided to extend the German operations to Leningrad and also to extend the activities of Action Group A to this town, I gave orders on 18 July 1941 to parts of Action Detachments 2 and 3 and to the Staff of the Group to advance to Novosseljo, in order to prepare these activities and to be able to advance as early as possible into the area around Leningrad and into the city itself. The advance of the forces of Action Group A which were intended to be used for Leningrad, was effected in agreement with and on the express wish of Panzer-Group 4."

The final quotation from this document is Page 18, last paragraph:

"Action detachment of Action Group A of the Security Police participated from the beginning in the fight against the nuisance created by partisans. Close collaboration with the Armed Forces and the exchange of experiences which were collected in the fight against partisans, brought about a thorough knowledge of the origin, organization, strength, equipment and system used by the Red partisans as time went on."

Now, on the weight of these documents I would like to turn to some of the remaining affidavits which are before the Tribunal in Document Book 1. These affidavits have been furnished by responsible officials in both the Wehrmacht and the SS, and fill in much of the background for the documents.

Affidavit Number 12 is an affidavit by Schellenberg, which in view of the fact that its contents have been covered in Schellenberg's and Ohlendorf's testimony, I do not propose to read. It covers much of the same ground, and I see no reason to take the time of the Tribunal by reading it. I should like to have it considered, subject to the usual rule that Schellenberg can be

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questioned on any of these matters by the defense. The affidavit itself is available in French and Russian as well as in German for the defense, so I will pass over that one.

I turn to Affidavit Number 13, which will be US 558. Schellenberg will be 557, and Number 13 becomes 558. This is an affidavit by Wilhelm Scheidt, a retired captain of the German army, who worked in the War History Section of the OKW from 1941 to 1945, and sheds considerable light on the relations between Wehrmacht and the SS at the top with respect to anti-partisan warfare. I will read the affidavit:

"I, Wilhelm Scheidt, belonged to the War History Section of the OKW from the year 1941 to 1945.

"Concerning the question of partisan warfare I state that I remember the following from my knowledge of the documents of the Operations Staff of the OKW as well as from my conversations in the Fuehrer's headquarters with Generalmajor Walter Scherff, the Fuehrer's appointee for the compilation of the history of the war.

"Counter-partisan warfare was originally a responsibility of Reichsfuehrer -SS Heinrich Himmler, who sent police forces to handle this matter.

"In the years 1942 and 1943, however, counter-partisan warfare developed to such an extent that the Operations Staff of the OKW had to give it special attention. It proved necessary to conduct extensive operations against the partisans with Wehrmacht troops in Russian as well as Jugoslavian territory. Partisan operations for a long while threatened to cut off the lines of communication and transport routes that were necessary to support the German Wehrmacht. For instance, a monthly report concerning the attacks on the railroad lines in occupied Russia revealed that in the Russian area alone from 800 to 1,000 attacks occurred each month during that period, causing among other things, the loss of from 200 to 300 locomotives.

"It was a well-known fact that partisan warfare was conducted with cruelty on both sides. It was also known that reprisals were inflicted on hostages and communities whose inhabitants were suspected of being partisans or of supporting them. It is beyond question that these facts must have been known to the leading officers in the Operations Staff of the OKW and in the Army's General Staff. It was further well known that Hitler believed that the only

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successful method of conducting counter-partisan warfare was to employ cruel punishments as deterrents.

"I remember that at the time of the Polish revolt in Warsaw, SS-Gruppenfuehrer Fegelein reported to Generaloberst Guderian and Jodl about the atrocities of the Russian SS-Brigade Kaminski, which fought on the German side".

Now, the foregoing documents and the testimony of Ohlendorf and Schellenberg relate to the arrangements which were made between the OKW, OKH, and Himmler's headquarters with respect to anti-partisan warfare. They show conclusively that these arrangements were made jointly, and that the High Command of the Armed Forces was not only fully aware of but was an active participant in these plans.

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Turning now to the field. I would like to read three statements by General Hans Roettiger, w ich will be affidavits numbers 15 and 16, USA 559 and 560. General Roettiger attained the rank of General of Panzer Troops, the equivalent of a Lieutenant-General in the American Army, and was Chie f of Staff of the German Fourth Army, and later of Army Group Center, on the Eastern Front, during the period of which he speaks.

The first statement is as follows:

"As Chief of Staff of the Fourth Army from May 1942 to June 1943, to which was later added the area of the Ninth Army, I often had occasion to concern myself officially with anti-partisan warfare. During these operations the troops received orders from the highest authority, as for example even the OKH, to use the harshest methods. These operations were carried out by troops of the Army Group and of the Army, as for example security battalions.

"At the beginning, in accordance with orders which were issued through official channels, only a few prisoners were taken. In accordance with orders, Jews, political commissars and agents were delivered up to the SD.

"The number of enemy dead mentioned in official reports was very high in comparison with our own losses. From the documents which have been shown to me I have now come to realise that the order from highest authorities for the harshest conduct of the anti-partisan war can have been intended to make possible a ruthless liquidation of Jews and other undesirable elements by using for this purpose the military struggle of the army against the partisans."

The second statement:

"Supplementary to my above declaration, I declare:
As I stated ordly on 28 November, my then Commander-in-Chief of the Fourth Army instructed his troops many times not to wage war against the partisans more severely than was required at the time by the position. This struggle should only be pushed to the annihilation of the enemy after all attemps to bring about a surrender failed. Apart from humanitarian reasons we necessarily had an interest in taking prisoners since very many of them could very well be used as members of native volunteer units against the partisans.

"Alongside the necessary active combatting of partisans there was propaganda directed at the partisans and also at the population with the object, by peaceful means, of causing them to give up partisan activities. For

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instance, in this way the women too were continually urged to get their men back from the forests or to keep them by other means from joining the partisans. And this propaganda had good results. In the spring of 1943 the area of the Fourth Army was as good as cleared of partisans. Only on its boundaries and then from time to time were partisans in evidence at times when they crossed into the area of the Fourth Army from neighboring areas. The army was obliged on this account, on the orders of the Army Group, to give up security forces to the neighboring army to the south."

The third statement by Roettiger, number 16:

"During my period of service in 1942-43 as chief of staff of the Fourth Army of the Central Army Group, ~~SD~~ units were attached in the beginning, apparently for the purpose of counter-intelligence activity in front-line areas. It was clear that these SD units were causing great disturbances among the local civilian population, with the result that my commanding officer therefore asked the Commander-in-Chief of the Army Group, Field Marshal von Kluge, to order the SD units to clear out of the front-line areas, which took place immediately. The reason for this, first and foremost, was that the excesses of the SD units, by way of execution of Jews and other persons, assumed such

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proportions as to threaten the security of the Army in its combat areas because of the aroused civilian populace. Although in general the special tasks of the SD units were well known and appeared to be carried out with the knowledge of the highest military authorities, we opposed these methods as far as possible, because of the danger which existed for our troops."

I would like now to offer one final document, the last document, 1786-PS, which will be US 561. That is 1786-PS. This is an extract from the War Diary of the Deputy Chief of the Armed Forces Operational Staff, dated 14 March 1943. I propose to read the last two paragraphs, which deal with the problem of shipping off suspected partisans to concentration camps in Germany.

The Tribunal will see, from the extract which I will read, that the Army was chiefly concerned with preserving a sufficient severity of treatment for suspected partisans, without, at the same time, obstructing the procurement of labor from the occupied territories.

I will read the last two paragraphs:

"The General Quartermaster, together with the Economic Staff, has proposed that the deportees should be sent either to prison camps or to training centers in their own area, and that deportation to Germany should take place only when the deportees are on probation and in less serious cases.

"In view of the Armed Forces Operations Staff, this proposal does not take sufficient account of the severity required and leads to a comparison with the treatment meted out to the 'peaceful population' which has been called upon to work. He recommends, therefore, transportation to concentration camps in Germany which have already been introduced by the Reichsfuehrer SS for his sphere and which he is prepared to introduce for the Armed Forces in the case of an extension to the province of the latter. The High Command of the Armed Forces therefore orders that partisan helpers and suspects who are not to be executed should be handed over to the competent Higher SS and Police Leader and orders that the difference between 'punitive work' and 'work in Germany' is to be made clear to the population."

Finally, I would like to offer a group of four affidavits which show

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that the anti-partisan activities on the Eastern Front were under the command and supported by the Wehrmacht, and that the nature of these activities were fully known to the Wehrmacht.

The first of these is Affidavit No. 17, USA 562, by Ernst Rode, who was an SS Brigadefuehrer and Major General of the Police, and was a member of Himmler's personal command staff from 1943 to 1945:

"I, Ernst Rode, was formerly chief of the Command Staff of the Reichsfuehrer-SS, having taken over this position in the spring of 1943 as successor to former SS-Obergruppenfuehrer Kurt Knoblauch. My last rank was Generalmajor of Police and of the Waffen-SS. My function was to furnish the forces necessary for anti-partisan warfare to the higher SS and police leaders and to guarantee the support of army forces. This took place through personal discussions with the leading officers of the Operations Staff of the OKW and OKH, namely, with General Warlimont, General von Buttlar, Generaloberst Guderian, Generaloberst Zeitzler, General Heusinger, later General Wenk, Colonel Graf Koelmannsegg, and Colonel von Bonin. Since anti-partisan warfare also was under the sole command of the respective Army Commander-in-Chief in operations areas -- for instance, in the Central Army Group under Field Marshal Kluge and later Busch -- and since police troops for the most part could not be spared from the Reichscommissariats, the direction of this warfare lay practically always entirely in the hands of the army. In the same way orders were issued not by Himmler but by the OKH. SS and police troops transferred to operational areas from the Reichscommissariats to support the army groups were likewise under the latter's command. Such transfers often resulted in harm to anti-partisan warfare in the Reichscommissariats. According to a special agreement between Himmler and the OKH, the direction of individual operations lay in the hands of the troop leader who commanded the largest troop contingent. It was therefore possible that an army general could have SS and police under him, and, on the other hand, that army troops could be placed under a general of the SS and police. Anti-partisan warfare in operational areas could never be ordered by Himmler. I could merely request the OKH to order it, until 1944, mostly through the intervention of Generalquartiermeister

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Wagner, or through State Secretary Ganzenmueller. The OKH then issued corresponding orders to the army groups concerned, for compliance.

"The severity and cruelty with which the intrinsically diabolical partisan warfare was conducted by the Russians had already resulted in Drakonian laws being issued by Hitler for its conduct. These orders, which were passed on to the troops through the OKW and OKH, were equally applicable to army troops as well as to those of the SS and police. There was absolutely no difference in the manner in which these two components carried on this warfare. Army soldiers were exactly as embittered against the enemy as those of the SS and police.

As a result of this embitterment orders were ruthlessly carried out by both components, a thing which was also quite in keeping with Hitler's desires or intentions. As proof of this, the order of the OKW and OKH can be adduced which directed that all captured partisans, for instance, such as Jews, agents and political commissars, should without delay be handed over by the troops to the SD for special treatment. This order also contained the provision that in anti-partisan warfare no prisoners except the above-named be taken. That anti-partisan warfare was carried on by army troops mercilessly and to every extreme I know as the result of discussionswith army troop leaders, for instance with General Herzog, Commander of the 38th Army Corps, and with his chief of staff, Colonel Pamberg, in the General Staff, both of whom support my opinion. Today it is clear to me that anti-partisan warfare gradually became an excuse for the systematic annihilation of Jewry and Slavism."

Your Lordship, I am told that I misread and said "Hitler" instead of "Himmler". Himmler is the Commander of Staff.

I next wish to offer another and shorter statement by Rode, which shows tha the SD-Einsatzgruppen were under Wehrmacht command. This is number 18, USA-563:

"As far as I know, the SD Combat Groups with the individual army groups were completely subordinate to them, that is to say tactically as well as in every other way. The commanders-in-chief were therefore thoroughly cognizant of the missions and operational methods of these units. They approved of these missions and operational methods because apparently they never opposed them. The fact that prisoners, such as Jews, agents and commissars who were handed over to the SD underwent the same cruel death as victims of so-called purifications, is a proof that the executions had their approval. This also corresponded with what the highest political and military authorities wanted. Frequent mention of these methods were naturally made in my presence at the OKW and OKH, and they were condemned by most SS and police officers, just as they were condemned by most army officers. On such occasions I always pointed out that it would have been quite within the scope of the authority of the commanders-in-chief of army groups to oppose such methods. I am of the firm conviction that an energetic and unified protest by all field marshals would have resulted in a change of these missions and methods. If they should ever

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assert that they would then have been succeeded by even more ruthless commanders-in-chief, this, in my opinion, would be a foolish and even cowardly dodge."

I would like next to read the final affidavit, number 24, in Document Book One.

THE PRESIDENT: Colonel Taylor, unless you are going to conclude this particular part, I think we had better recess now.

COLONEL TAYLOR: I will conclude with two affidavits, Your Honor, but it will take probably ten minutes.

THE PRESIDENT: Very well, if that will conclude it, go on.

COLONEL TAYLOR: Firstly, Affidavit No. 24, which becomes USA-565. This is by Colonel Bogislav von Bonin, who, at the beginning of the Russian campaign, was a staff officer with the 17th Panzer Division:

"At the beginning of the Russian campaign I was the first General Staff officer of the 17th Panzer Division which had the mission of driving across the Bug north of Brest-Litovsk. Shortly before the beginning of the attack my division received, through channels from the OKW, a written order of the Fuehrer. This order directed that Russian commissars be shot upon capture, without judicial process, immediately and ruthlessly. This order extended to all units of the Eastern Army. Although the order was supposed to be relayed to companies, the Commanding General of the 37th Panzer Corps -- General of Panzer Troops Lemelson -- forbade its being passed on to the troops because it appeared unacceptable to him from military and moral points of view

That brings us to the final affidavit, number 20, USA 564, which is by Adolf Heusinger.

THE PRESIDENT: What was the number?

COLONEL TAYLOR: It is number 20, Your Honor, USA 564, by Adolf Heusinger General-lieutenant in the German Army, and from 1940 to 1944 Chief of the Operations Section at OKH. I read:

"1. From the beginning of the war in 1939 until autumn 1940 I was I-a of the Operations Section of the OKH, and from autumn 1940 until 20 July 1944 I was chief of that section.

"When Hitler took over supreme command of the Army, he gave to the chief of the General Staff of the Army the function of advising him on all operation

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matters in the Russian theater.

"This made the chief of the General Staff of the Army responsible for all matters in the operational areas in the east, while the OKW was responsible for all matters outside the operational areas, for instance all troops--security units, SS units, police--stationed in the Reichscommissariates.

"All police and SS units in the Reichscommissariates were also subordinate to the Reichsfuehrer-SS. When it was necessary to transfer such units into operational

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areas, this had to be done by order of the chief of the OKW. On the other hand, corresponding transfers from the front to the rear were ordered by the OKW with the concurrence of the chief of the General Staff of the Army.

"The high SS and police leaders normally had command of operations against partisans. If stronger army units were committed together with the SS and police units within operational areas, a high commander of the army could be designated commander of the operation.

1. "During anti-partisan operations within operational areas all forces committed for these operations were under the command of the respective commander-in-chief of the army group.

2. "Directives as to the manner and methods of carrying on counter-partisan operations were issued by the OKW-Keitel-- to the OKH upon orders from Hitler and after consultation with Himmler. The OKH was responsible merely for the transmission of these orders to army groups, for instance, such orders as those concerning the treatment to be accorded to commissars and communists, those concerning the manner of prosecuting by courts martial army personnel who had committed offenses against the population, as well as those establishing the basic principles.governing reprisals against the inhabitants.

"3. The detailed working out of all matters involving the treatment of the local populace as well as anti-partisan warfare in operational areas, in pursuance of orders from the OKW, was the responsibility of the Generalquartiermeister of the OKH.

"4. It had always been my personal opinion that the treatment of the civilian population and the methods of anti-partisan warfare in operational areas presented the highest political and military leaders with a welcomed opportunity of carrying out their plans, namely, the systematic extermination of Slavism and Jewry. Entirely independent of this, I always regarded these cruel methods as military insanity, because they only helped to make combat against the enemy unnecessarily more difficult."

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THE PRESIDENT: We will adjourn until a quarter past 2.

(Whereupon at 1300 hours the hearing of the Tribunal adjourned to reconvene at 1425 hours.)

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OFFICIAL TRANSCRIPT of the International Military Tribunal in the matter of The United States of America, The French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al., Defendants, sitting at Nurnberg, Germany, on 7 January 1946, 1400 to 1700 hours, Lord Justice Lawrence, presiding.

COLONEL TAYLOR: Will your Lordship swear the witness?

THE PRESIDENT: What is his name?

COLONEL TAYLOR: Erich Von Dem Bach-Zelewski.

BY THE PRESIDENT:

Q What is your name?

A Erich Von Dem Bach-Zelewski.

Q Will you take this oath? "I swear by God the Almighty and Omniscient that I will speak the pure truth and will withhold and add nothing."

A I swear by God the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

Q Will you spell your name slowly?

A E-r-i-c-h V-o-n D-e-m B-a-c-h-Z-e-l-e-w-s-k-y.

Q Is this right -- B-a-c-h-Z-e-l-e-w-s-k-y?

A Yes.

BY COLONEL TAYLOR:

Q May I remind the witness to speak very slowly and to keep his answers as short as possible?

Can you hear me?

A Yes.

Q Are you a member of the SS?

A Yes.

Q What was the last rank you held in the SS?

A SS Obergruppenfuehrer. 2nd General der Waffen SS.

Q Did you serve in the 1914-to-1918 war?

A Yes, from 1914 to 1918. I was at the front and was wounded twice and received the Iron Cross, first and second class.

Q Did you remain in the army after the end of the last war?

A Yes, I stayed in the 100,000 man army.

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Q How long did you remain in the army?

A Till 1924, when I received my discharge.

Q Did your military activities then stop?

A No, I was leader of the Battalion in the border defense, and until the campaign against Poland I did my exercises with the Wehrmacht.

Q Did you join the Nazi Party?

A Yes.

Q In what year?

A In the year 1930.

Q What branch of the party did you join?

A The Allgemeine SS.

Q What were your activities in the SS prior to the outbreak of the war?

A I was with the General SS in the district of Schneidemuehl and Frankfurt on the Oder, and from 1934 I was Oberabschnittsfuehrer in East Prussia and afterwards in Sicilia.

Q Were you a member of the Reichstag during this period?

A Yes, I was a member of the Reichstag from 1932 right up to the end.

Q Did you take any active part during this war before the campaign against the Soviet Union?

A No, not before the campaign against Russia.

Q What was your rank at the beginning of the war?

A At the beginning of the war I was SS Group Leader and Lieutenant General.

Q And when were you promoted?

A I was promoted on the 9th of November, 1941, to Obergruppenfuehrer and General of the Waffen SS.

Q What was your position after the beginning of the campaign against the Soviet Union?

A Would you kindly repeat the question; it wasn't quite clear.

Q What was your position, your function, at the beginning of the war against the Soviet Union?

A At the beginning of the campaign against Russia, I was a member

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of the Higher SS and I was at the rear zone of the Army Group Center.

Q Was there a similar SS official in the rear zone of each Army Group?

A Yes, in every Army Group, North, Middle and South, there was a leader at that time.

Q Who was the Commander-in-Chief of Army Group Center?

A The Commander-in-Chief of Army Group Center was, at the beginning, Field Marshal von Bock, and later General Field Marshal Kluge.

Q Who was the Armed Forces Commander in the rear zone of Army Group Center?

A General of the Infantry von Schenkendorff.

Q Was he directly subordinate to the Commander-in-Chief of the Army Group?

A Yes.

Q Who was your immediate superior in the SS?

A Heinrich Himmler.

Q Who was your immediate superior in the rear zone in the Army Group?

A General von Schenkendorff.

Q What was your principal task as Higher SS and Police Leader in Central Russia?

A My principal activity was to fight the partisans.

Q Are you generally familiar with the operations of the so-called Einsatzgruppen of the SD?

A Yes.

Q Did these units play any important part in large-scale anti-Russian operations?

A No.

Q What was the principal task of the Einsatzgruppen?

A The principal task of the Einsatzgruppen was to eliminate the Jews, gypsies and political commissars.

Q Then, what forces were used for large-scale anti-partisan operations?

A For anti-partisan activities, formations of the Waffen SS, of the Order Police, and mainly of the Wehrmacht were used.

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Q Please describe the nature of these regular army units that were used for anti-partisan operations.

A The units of the Wehrmacht were first of allused in a rear zone

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and were kind of holding divisions, so-called Schuetzen Battalions, which were put in independently under the commanders of Wehrmacht formations for the defense of certain objectives, such as railroads and so forth, and other military objectives. Moreover, from 1942 or '43, there were certain alarm units who were taken from the base formations or the rear zones.

Q Until when did you remain Higher SS and Police Leader for Central Russia?

A I was Higher Police Leader for Central Russia, with interruptions, when I was put in the front, once when I was very ill for about six months; otherwise I was there until the end of 1942, when I was appointed Chief of the Anti-partisan Units.

Q Wasthis position, as Chief of Anti-partisan Units, created especially for you?

A Yes.

Q To whom were you directly subordinate in this new capacity?

A Heinrich Himmler.

Q Were your functions in this new capacity restricted to any particular part of the Eastern Front?

A No, my task comprised the whole of the East.

Q What was the general nature of your duties as Chief of Anti-partisan Units?

A First of all, I was in Himmler's quarters. I had to establish a Central Office to which all notices came about the partisans, and in which all these notices were studied and passed on to the necessary authorities.

Q In the course of your duties, did you confer with the commanders of army groups and armies on the Eastern Front?

A It was with the commanders-in-chief of army groups, but not of the armies, and with the Wehrmacht leaders.

Q Did you advise these commanders with respect to the methods which should be employed to combat partisans?

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A Yes.

Q Will you name some of the commanders with whom you personally conferred.

A The list would no doubt be exhaustive, but I will give them to you as well as I remember them: Wehrmacht Commanders Ostland, General of Cavalry Bremer; General Field Marshal Kuechler; Commander-in-Chief of the Army Group North; Commander-in-Chief of the Army Group Center, Kluege; Busch, the Wehrmacht Commander-in-Chief of the Ukraine; General of the Luftwaffe, Kitzinger; General Field Marshal Freiherr von Weichs, Commander-in-Chief in Serbia, such as Belgrade, and Commander-in-Chief in the area of Trieste.

Q What proportion of Wehrmacht troops was used in anti-partisan operations as compared to police and SS troops?

A As the number of troops of the police and SS was only very small, the anti-partisan activity was mainly undertaken by formations of the Wehrmacht.

Q Were the anti-partisan troops usually commanded by Wehrmacht officers or by SS officers?

A First of all, it was according to the area; in the operation area, almost always the Wehrmacht, but there were orders that whatever formations, whether it was Wehrmacht or police, the formation which had the most troops was to lead.

Q Did the highest military leaders issue instructions that anti-partisan operations were to be conducted with severity?

A Yes.

Q Did the highest military authorities issue any detailed instructions as to the methods to be used in anti-partisan operations?

A No.

Q What was the result in the occupied territories of thislack of detailed directions from above?

A In consequence, because there was not enough orders, there was a wild chaos in the anti-partisan activities.

A In your opinion, were the measures taken in anti-partisan operations far more severe than the circumstances warranted, or were they not?

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A As there were no orders and the lower commanders were obliged to act independently, the undertakings were carried out according to the character of the commander and according to the quality of the troops, and these varied greatly. I am of the opinion that the operations were often carried out not only on purpose but they also shot far beyond the mark.

Q Did these measures result in the unnecessary killing of large numbers of the civilian population?

A Yes.

Q Did you report these excessive measures to the commanders of the army groups and other Wehrmacht officers?

A This consequence was generally known. There was no necessity to make a special report, because every operation was reported in any case in all its details, and was known to every responsible leader.

Q Were any effective steps taken by the highest military authorities or by the commanders of army groups to stop these excesses?

A I remember that in particular General von Schenkendorff in this matter made a great many reports and discussed them with me, and afterwards passed them on through our service channels.

Q Did these reports by General von Schenkendorff have any effect?

A No.

Q Why not?

A The Quartermaster General Wagner certainly tried to effect a change by being somewhat stricter, but he did not succeed in having this carried out.

Q Was an order issued by the highest authorities that German soldiers who committed offenses against the civilian population were not to be punished in the military courts?

A Yes, an actual order was given.

Q Was this order an obstacle to correcting the excesses of the troops?

A Yes, in my opinion, this order presented the only proper way of fighting, because you can only educate troops if you have disciplinary powers and jurisdiction over them and can do something against excesses.

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Q What decorations did you win during this war?

A In this war I received the clusters to the Iron Cross I and II, the German Cross in gold, and the Knight's Cross to the Iron Cross.

COL. TAYLOR: Your Lordship, the witness is available for examination by others.

THE PRESIDENT: Does the Soviet prosecutor wish to ask any questions.

COL. POKROWSKI: If you will allow me, I wish to ask these several questions:

Q Which forces of the police and SS were at your disposal in 1941 and '42, when you were the Chief of the Police and SS in the rear zone of Central Army Group?

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A. There were directly under my command in 1941 one police regiment of the Order Police, and in addition at times for about two or three months, one SS Cavalry Brigade.

Q. Was the Einsatzgruppe B under you, at the head of which was Nebe?

A. No.

Q. Did you receive the reports of Nebe or not?

A. Not directly, but I received them later, managed to get them Later.

Q. What do you know about the activities of the Group B/

A. The Einsatzgruppe B was in Smolensk, and it operated just like the other Einsatz Groups. We heard everywhere in conversations that the Jews were assembled and put into ghettos.

Q. Did you report to the commands of the operational groups the activities of the Einsatzgruppe B?

A. I heard about this activity of Einsatzgruppe B through Schenkendorff who was at the head of the Army Group Center.

Q. Do you know about the order of the Commander of the Sixth Army, General Reichenau about the partisan movement?

A. Would you be kind enough to repeat the name; was it General von Reichenau?

Q. Yes.

A. Yes, I know. I think it was in 1941, but it might have been in 1942; there was an order by General von Reichenau which was sent to all Wehrmacht commanders, and in this order he opposed the actions against th Jews and the partisans.

Q. In 1943, or later, were there under your command any troops which were especially fighting the partisan movement?

A. In 1943, as Chief of the Anti-partisan Movement, I was not direc ly in command, because I was Head of the Central Office, but when the jurisdiction of two commanders overlapped, I did lead some operations.

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Q. Do you know anything about the existence of a special brigade which was formed from contrabandists and paochers and people released from prison?

A. From all these troops which were really qualified as anti-partisans at the beginning of 1942, one battalion under the command of Duerrlewanger was put in as an anti-partisan unit in Army Group Center, and this battalion was gradually enlarged by some reserves, actually reaching the size of a regiment and later of a brigade. This was the Brigade Duerrlewanger, and it consisted for the most part of criminal elements, officially of poachers, but there were real criminals among ther who had committed robbery and even murder.

Q. Why was it that the command of the German Army so willingly strengthened and increased its forces, which were formed from the ranks of criminals and directed them for war against the partisans?

A. I am of the opinion that there was a close connection between th speech made by Heinrich Himmler at the beginning of 1941 before the campaign against Russia, when he spoke of the purpose of the Russian campaign, which was to decimate the Slav population by thirty million, and in order to be active in this direction, a troop of low characters would have to be formed.

Q. Did I understand you correctly that the character of people who were in charge of troops fighting the partisans had been given exact instructions as to how to act against the partisans and the civil population? I had in mind the direct destruction of the population.

A. I am of the opinion that for certain commanders and in certain formations this was the goal

Q. By which means and by what measures had the Wehrmacht taken to counteract the partisan attack? Did they have a plan, or did the actions change as the conditions required?

A. There was apparently not an absolutely certain plan, but big operations were introduced centrally and carried out. But mostly the active partisan operations were of an important character, because all th

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lower commanders were obliged to keep their own areas free from partisans, that is to say, to act on their own initiative.

Q. You have told us that in very many cases the generals and officers of theWehrmacht headed the movement, the fighting against the partisans. Can you name a few concrete facts and names of generals and officers who have taken part in it?

A. I do not quite understand the purpose of the question. The names of commanders?

Q. You have said that in not a few cases the operations directed against the partisans were directed by officers and generals of the Wehrmacht. I wish to know could you give us names of the officers and generals who have taken part.

A. I didn't quite understand. Names?--oh, yes, now I understand. I have already named some of the generals. I remember Major General Hartmann. A large partisan operation was undertaken by General Reinhardt against partisan groups. There was no general in the rear zone who was not concerned with anti-partisan activity. If the names would be told me then I could remember either one or the other, if they participated or not.

Q. Perhaps you will tell us which great action was under General Ackmann.

A. I am afraid I can't remember.

Q. Were there any general orders relating to the prisoner-of-war populations or the partisan movement?

H0030-0060

A There were, unfortunately, no commands which clearly stated how the partisans were to be treated or the population. That is what I approached them with, that no commands were given,--what was to be done with the partisans or even who was to be looked upon as partisans. But if anything happened against the German Wehrmacht there were no commands which said clearly what was to be done by way of reprisals.

Q Am I to understand you that in view of the fact that direct orders were absent there was a great possibility of actions, and any part of the command had the power to take any person and do with him whatever he liked?

A He certainly had to act independently and could act independently. There was no possibility of exact control in individual cases, but the activity of all troops employed--it was quite clear to the commands, because in all reports these reprisals were exactly--it had to be reported how many partisans had fallen in the fight, how many partisans had been shot, how many partisans were shot on suspicion, and how many loses of troops they had. Every leader from above was quite able to see what had happened in any of the operations.

Q Well, each commander has decided for himself whether there were any reasons to suspect anybody of being a partisan, and to kill him?

A Yes.

Q Do you know of any orders which contained the orders to burn the villages and to punish for helping the partisans?

A No, I don't think that there were any such written orders, but that is what I consider wrong, that there just were no orders. It ought to have been ordered quite clearly how many were to be executed if one German soldier had been killed or ten German soldiers had been killed.

Q Am I to understand you that if a commander has burned the village as a punishment of the local population for helping the partisans there, were the results of their personal decisions to take this measure?---I mean the personal decisions of the commander?

A Yes. These steps were taken by the commander independently. His own superior officer could not do anything about it, because the highest order were expressly that if any damage was done to the civil population there was

H0030 - 0061

to be no disciplinary or judicial measures taken against them.

Q The same is to be understood as far as hostages are concerned?

A Yes, I think that in connection with the anti-partisan activity I do not think hostages were taken at all. I don't think that the expression "hostages" was ever used in the anti-partisan activity.

Q Do you know anything about transferring to Germany all persons of about fourteen to eighteen years.

A I don't remember that in detail, but when I was made chief of partisan activities I was protested against when I protested against reprisals when the order was given in the anti-partisan activity. Partisans who were arrested were no longer to be shot, but were to be sent for labor into the Reich for the organization Sauckel.

Q If I understood you correctly, your reply to questions given by the American prosecution--you have talked at that time that the fighting against partisan movements was to the destruction of the Slovenic and Jewish peoples?

A Yes.

Q Was the Wehrmacht aware of the methods of fighting against the partisans and for the destruction of Slavonic and Jewish races?

A The methods were generally known, certainly by the military leaders. I do not of course know whether they knew about the plan mentioned by Himmler.

Q Did you personally take part in any conferences with generals of the Wehrmacht during which it was clearly stated the methods of the war against partisans?

A The methods of warfare as such were talked about in detail and were known, but at these discussions it was not said that such and such a number of persons were to be shot. That is not how the executions took place.

Q You have told that the Germans had in mind to destroy the Slav population by reducing the number of Slavs to thirty million. From where did you get this figure and this order?

A Not to kill; not to reduce to thirty million; but by thirty million. Himmler mentioned this in his speech.

Q I do not quite understand. Did the Wehrmacht know at that time the Slav population--would you kindly repeat the question; I am not quite clear about it?

HO030 - 0062

Q I have asked can you confirm the fact that the measures which were carried out by the Wehrmacht under the administration of the districts which were occupied by the Germans were directed to the purpose of reducing the number of Slavs and Jews to thirty millions? Do you understand the question now?

A I am of the opinion that these methods would have led to the extermination of thirty million if it had been continued in the same way, and if by the development of the situation this had not been altered completely.

COLONEL POKROWSKI: I have no more questions to put to the witness at this sitting of the Tribunal.

THE PRESIDENT: Does the Defense have any questions?

CROSS-EXAMINATION

BY DOCTOR EXNER (counsel for the General Staff of the OKW):

Q You said you were chief of the anti-partisan activity?

A Chief of the anti-partisan unit.

Q If there were such chaotic circumstances there why didn't you alter the system?

A Because I never had any authority.

Q Why?

A Because I was never entrusted with this authority. I was not allowed to command or empowered with disciplinary powers, nor was I a judge.

Q Did you make a report to your superior officer?

A Every day. I had permanent office with Himmler.

Q Did you make any proposals about changes?

A Very often.

Q And why were these not realized?

A I think I expressed myself quite clearly before, because I am of the opinion that this change was not desired.

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Q You also, as you have told us, made reports to your superior authority about the dead and wounded and the prisoners of the enemy after such action. Tell me what proportion, approximately what proportion were the prisoners to the dead on the enemy side?

A That varied. You can't take all the operations together. It was a fact that the prisoners were very much more numerous than the dead, but not in the years in which the orders had been given that prisoners were not to be taken at all.

Q You say that the system was stricter at first and milder later on?

A Yes, it was milder in a way because there were clearer orders where the prisoners were to be transported, and that had not been the case at first.

Q Can y ou tell me of any orders that you received from military authorities and which were directed to the elimination of millions of Slavs?

A I have already answered this question. I said there was no such written order.

Q Do you know that the reports that you made to Himmler about the action that you took were presented by Himmler to the Fuehrer?

A May I be a little bit more explicit in answering it? At first I had a permanent staff in Himmler's office. My chief of staff was there permanently while I was at the front. Between the Wehrmacht office, OKW, and OKH, and my own staff there was constant contact which was about the reports of the partisans' activities and which did not first come to me. But there were a number of channels which went by OKH, that is to say, the Wehrmacht reported just as much to us as we reported to the Wehrmacht. When these reports were collected in my staff every day these reports were passed to Himmler who passed them on.

Q To whom?

A The generals of the Wehrmacht. They have already confirmed that these reports reached them.

Q Were there Jews in these partisan groups?

A Without question. In some partisan groups there were, corresponding to the Jewish population, that some Jews participated.

Q In some cases. Was that perhaps more an exception?

A Yes, it was an exception.

Q Therefore, I do not quite understand how the actions against the partisans should lead to the elimination of the Jews.

H0030-0064

A I did not say that. We were talking about the question of the Einsatz groups before.

Q Tell me, do you know the regiment Duerrlewanger? Do you remember that?

A That is the brigade Duerrlewanger, which I explained to the prosecutor a while ago.

Q Was that at one time under your command in the year 1941?

A Yes.

Q Was it a formation of the Army?

A It did not belong to the Waffen SS, but it came from the Wehrmacht.

Q Can you tell me who was present at Himmler's speech?

A There were about twelve group leaders--gruppenfuehrers of the SS.

Q Were officers of the Wehrmacht there?

A No.

DOCTOR EXNER: Thank you.

DOCTOR KRAUS (counsel for Defendant Schacht):

Q On the 18th of August 1935 you were present in Koenigsberg when the former Reichsbank president, Schacht, made a speech at the affair?

A Yes.

Q What was your profession at the time?

A I was Oberabschnittsfuehrer.

Q Were you present in your professional capacity?

A Yes, as Oberabschnittsfuehrer of the SS.

Q You suddenly left the room in the middle of the speech in protest, didn't you?

A Yes, in the middle of the speech I left the room.

Q Was that in protest?

A Yes.

Q Then that is to say that you did not agree with the speech?

A It purposes. That was not on account of the speech, but in protest. On account of the speech, no.

Q May I ask you then why you protested?

A It is well known that in East Prussia I was in sharp opposition to Gauleiter Koch, which led to his being suspended. I was in such sharp opposition to Koch that I did not understand how Reich Minister Schacht could compliment such a man I considered to be completely corrupt.

Q Was it a protest against the attitude of Schacht or indirectly against Koch?

H0030 - 0065

A I think Schacht must know that it was a protest against Koch. I was able to explain that to him.

BY DOCTOR SERVATIUS (counsel for Defendant Sauckel):

Q Mr. Witness, you said that a change came in the treatment of the partisans. It was ordered, you said, that the partisans were to be sent to labor service. From whom did this order come?

A I can't remember that in detail. I only know that Sauckel traveled around the East and made speeches and said it would be best if these people who had been taken prisoner in the partisan war, if they came to labor service.

Q I asked you who gave the order. Was it from Himmler or from the organization Sauckel?

A No. The organization Sauckel could of course not give orders about the partisans. I imagine that organization Sauckel had caused this to be done, but the orders come from Himmler.

Q Where was this organization Sauckel? What did it consist of?

A It was generally known that the organization was there for finding labor to put in the armament industry in the Reich.

Q You spoke of an organization, but you don't know of a real organization?

A Oh, no, not an independent organization such as you are suggesting.

Q Do you know that Sauckel had no executive powers of his own?

A No, I didn't know that.

H0030 - 0066

THE PRESIDENT: I want the attention of the Defendant's Counsel. Unless Counsel and the witness speak slowly and make adequate pauses between the questions and the answers, it is impossible for the interpreters to interpret properly, and the only result is that the questions and answers do not come through to the Tribunal, nor do the Defendant's Counsel get the benefit of the true meaning of the answers which have been given in the examination in chief, and everything that you may think you gain by rapidity of cross-examination, you lose by the inadequacy of the translation; and I will repeat, that you should pause at the end of your sentences and at the end of your question, so as to give the interpreter's voice time to come through.

BY DR. STAHMER (Counsel for Defendant Goering):

Q As the witness, you said that from 1942 on, you were Chief of the Anti-partisan Groups. As such, you were devoted to the fighting of the partisans in the East?

A Yes, that is true, for the fighting of partisans.

Q Now, you did say that there was some lack of clarity as to what should be understood under the term "partisan"; the concept of "partisan" was unclear and had been for some time. Is that correct?

A In its essential meaning, yes. In my opinion, there must be drawn a distinction between partisans and those suspected of partisan activities. Troops do not always make this distinction. A partisan was a man who was particularly sought after and a trained man and also very well armed. It was always important to me that this concept should be particularly regarded and similarly it should not be indiscriminately said, as we say that one gets fire from wood or from a forest or from a house, that anyone could be called a partisan. Partisans were used to disappearing rapidly after a successful action; they relied on surprise. That is when the troops took counter measures and were not particularly schooled, and this concept had not been completely clarified and the result was that the troops said the shooting took place at such and such a village and therefore it was done by partisans; but according to my opinion, a partisan was that person who was taken prisoner or killed with a weapon in his hand. All other people could not be characterized as partisans.

Q Now, what did you do in a positive way in order to clarify this

H0030 - 0067

concept of "partisan?"

A As I previously said, in 1941, even before I was chief of the Anti-partisan Forces, not only by me but also by General Schenkendorf, a large and continuous number of memos was handed in with regulations and we handled this matter. For instance, in central army groups, such memoranda were handed in all the time. Schenkendorf and I, together, worked out a series of regulations with the fighting of partisans which was never published. My Staff, immediately after I was appointed Chief of the Anti-partisan Forces--that is to say, the beginning of 1943--immediately took up its work and again worked out another series of regulations for the fighting of partisans. It lasted, however, quite a while before those regulations were actually published, mainly in the year 1944 when it was really already too late.

Q Who published these regulations?

A These regulations were published as a regular Wehrmacht regulation in the year 1944.

Q What was its content?

A It was entitled "Bandenkampfverschrift" (Regulations for the Fighting of Partisans).

Q What was its contents?

A Its content <u>in toto</u> was the fighting of partisans, reconnaissance, differentiating between large, small and medium groups, and so forth.

Q These regulations appeared in 1944. Was it theretofore your job to conduct the fighting against partisans in the entire East? How did you inform your forces how they should behave?

A First of all I had no authority to issue commands. I have already said so. Secondly, they never took the formulated partisan bands. They were simply occasional groups of men who got together. It was not the case that I had troops whose only purpose was the fighting of partisans. Moreover--and I should like to emphasize this--the document that appointed me Chief of the Anti-partisan Forces intended the fighting of partisans for the appropriate persons, either the Higher SS Officer or the Wehrmacht Officer who would come in to question in that field of regulation. I myself in that regulation simply had the capacity as Inspector. Despite my continuous request for ---

H0030 - 0068

THE PRESIDENT: You must go slowly and pause between your sentences.

Q As General of the Waffen SS you must have had power to issue commands?

A I only had authority to issue commands when I conducted an undertaking

Q But you were appointed for the fighting of partisans and you must have had units?

A No, I had no such units.

Q Then with what did you conduct your fighting of partisans?

A From time to time, I went to the Commander-in-Chief in question and talked the question over with him and requested the necessary troops, if they were not given to me, as often happened, directly by the OKW or the OKH.

Q You requested, in other words, troops. If they were not given to you; then those troops were under your command?

A No, only when I actually lead the attack. Either the General of the Wehrmacht in question or if it was in a field in which there was a civil government, the SS Police Leader in question. That was one of the regulations for the use of Anti-partisan groups that I could only request authority to issue commands if I had the endorsement of the Higher SS or Wehrmacht Officers. In places where only groups overlapped, in such regions where two armed groups overlapped, I could take the authority.

H0030 - 0069

Q Did you ever conduct an action yourself?

A I did in the year 1943.

Q In what way?

A This undertaking took place in the autumn of 1943, in the region of Idrizza Polotsk. I flew, first of all, to the central army group and talked those matters over with General Krebs and then went to the central armed group, another armed group, and talked the same things over with Field Marshal Kuechler. Kuechler had called together all the troops of the forward and rear areas and something was done by the central army groups with its forces in each of them; in other words, some esprit de corps. I belonged to the staff in control of this corps and had as liaison officer Melentin. Then I myself carried out the undertaking. In the meantime, the front had been broken through in the Nebe's Sector and I came to the independent decision to make a new front against these Russian soldiers who had broken through, and in this way I became the front line-- I and my unit.

Q You said previously that you had been decorated with the Knight's Cross. Did you receive this decoration for that activity?

A No, as I said before, I received that decoration in the year 1941 for the front line service: 1941 in front of Moscow, later by Wilikuluki, later by the uprising in Warsaw, and from then on I lead an SS Corps.

Q Did you not know that you were particularly praised by Hitler and Himmler, particularly for your ruthless and severe fighting of partisans?

A I received no particular decoration for my fighting of partisans. I received all my decorations in the Wehrmacht and for my services at the front line. I would be glad to name the names.

H0030 — 0070

Q The Brigade Duerrlewanger was an SS Brigade?

A The Brigade Duerrlewanger did not belong to the Waffen SS. It was an organization which at best could be classified with the Allgemeine SS.

Q Did the Commander Duerrlewanger belong to the SS?

A Yes.

Q Did you not yourself suggest that criminals should be collected and used for the fighting of partisans?

A No.

CROSS EXAMINATION BY DR. THOMA (Counsel for Defendant Rosenberg):

Q Witness, do you know that the civil government in Ruthenia often protested against the anti-partisan activities?

A Yes.

Q The civil authority was subordinate to the Reich Kommisar, and he in turn was subordinate to Rosenberg?

A Yes.

Q Witness, if I understood you correctly, you objected to the way in which the anti-partisan movement was carried out, in which many innocent people were killed, and also objected to the Reichsfuehrer SS Himmler's orders?

A Yes.

Q How can you reconcile that with your conscience that the orders stating the regulations for partisan movement and also for the use of Einsatz groups were--

THE PRESIDENT: The question had not come through then on the interpreter's voice before you began to answer. You must give greater pauses between the question and answer.

Q (continuing) Did you understand my question?

A Yes, now I understand.

H0030 - 0071

Q How did you reconcile it with your conscience to be an inspector and to remain an inspector of the anti-partisan forces?

A I did not reconcile that with my conscience. But I actually strove to achieve this position because I saw in the years '41 and '2, along with Schenkendorf, that things could not continue as they were. And Schenkendorf, my immediate superior, suggested to me, or rather suggested me.

Q But you knew that you could achieve nothing with these suggestions?

A No, I didn't and couldn't know that.

Q At any rate, you did not achieve anything?

A I don't believe that. My opinion is that if someone else had been in that position, much more misfortune would have taken place than actually did.

Q Do you believe that Himmler's regulations, in which he demanded that thirty million Slavs should be exterminated--do you believe that was his opinion, or was it a part of the whole National Socialistic attitude toward life?

A I am to-day of the mind that the logical consequences of that attitude was such a regulation.

Q To-day--what was your opinion at that time?

A It is difficult for a German to make this confession and it took me a long while.

Q How does it happen that a few days ago a witness appeared in this Tribunal, namely Ohlendorf, who admitted that under his command of Einsatz groups, ninety thousand people were killed, and the Court was informed this did not correspond to National Socialist ideology?

A I am of the opinion, when for years, for decades, the doctrines as preached that the Slavic race is an inferior race and Jews not even human, then such an explosion was inevitable.

H0030 – 0072

Q Nevertheless, the fact remains, along with the attitude that you may have had at that time, you also had a conscience?

A Today also, and that is the reason I am here.

THE PRESIDENT: Dr. Exner, are you cross-examining on behalf of some other Defendant, or what?

DR. EXNER (Counsel on behalf of Defendant Jodl): I should like to ask two or three questions that seem to me, or that my client stated during the intermission is important to him.

THE PRESIDENT: You have already cross-examined, have you not?

DR. EXNER: Yes, but I now have three new questions. We were not able to prepare ourselves for this cross-examination.

THE PRESIDENT: Very well.

CROSS EXAMINATION BY DR. EXNER:

Q Witness, you said an order came in the year 1944, regarding the fighting of partisans and during this intermission I have read in the document book provided us by the Prosecution, under 1786-PS, and there I found mentioned a regulation regarding the fighting of partisans, of 27 November, 1942. Do you know anything about this?

A No.

Q It must exist, since here it is. It is not known to you?

A No.

Q Please tell me whether you know of a Russian regulation regarding partisans?

A Yes.

Q Could you tell us something of its contents?

A I cannot any longer recall.

Q Do you know where this regulation is to be found?

A No.

DR. EXNER: Thank you.

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THE TRIBUNAL (Mr. Biddle): Do you know how many members of the Wehrmacht were used at any one time in this anti-partisan activity? What was the largest number of troops?

THE WITNESS: Large undertakings were called, that is to say, undertakings in the strength of one division upwards. I believe the largest number might have been a number such as three divisions.

THE TRIBUNAL (Mr. Biddle): I mean all the troops on the Eastern Front at any one time used in these anti-partisan activities?

THE WITNESS: I cannot answer that because these troops were never under my direction at one time. They were there with individual operations simultaneously and continually;

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large and small operations. Day by day and every day reports of these activities came in.

THE TRIBUNAL (Mr. Biddle): Do you know how many Einsatz groups were used?

THE WITNESS: I know of three, one for each army group.

THE PRESIDENT: Do you want to re-examine?

COLONEL TAYLOR: No, sir.

THE PRESIDENT: Then the witness may go.

COLONEL TAYLOR: Your Lordship, that concludes the evidence under Counts Three and Four of the Indictment and I have only a few more words by way of general conclusion.

I ask the Tribunal to bear in mind the German High Command is not an evanescent thing, the creature of a decade of unrest, or a school of thought or tradition which is shattered and utterly discredited. The German High Command and military tradition have in the past achieved victory and survived defeat. They have met with triumph and disaster, and they have survived through a singular durability.

An eminent American statesman and diplomat, Dr. Sumner Welles, has written, and I quote from his book "The Time for Decision", page 261:

> "...the authority to which the German people have so often and so disastrously responded was not in reality the German Emperor of yesterday, or the Hitler of today, but the German General Staff.
>
> "Whether their ostensible ruler is the Kaiser, or Hindenburg, or Adolf Hitler, the continuing loyalty of the bulk of the population is given to that military force controlled and guided by the German General Staff."

I think that this emphasizes the historical importance of the decision which this Tribunal is called upon to make. But we are not now indicting the German General Staff at the bar of history, but on specific charges of crimes against International Law and the dictates of the conscience of mankind, as embodied in the Charter, which governs this Court.

The picture we have seen is that of a group of men with great power for good or ill, who chose the latter; who deliberately set out

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to arm Germany to the point where the German will could be imposed on the rest of the world and who gladly joinced forces with the most evil forces at work in Germany. "Hitler produced the results which all of us warmly desired" we are told by Blomberg and Blaskowitz, and that is obviously the truth. The converse is no less clear; the military leaders furnished Hitler with the means and might which were necessary to his survival, to say nothing of the accomplishment of those purposes which seem to us so ludicrously impossible in 1932 and so fearfully imminent in 1942.

I have said that the German militarists were inept as well as persistent. Helpless as Hitler would have been without them, he succeeded in mastering them. The generals and the Nazis were allies in 1933. But it was not enough for the Nazies that the generals should be voluntary allies; Hitler wanted them permanently and completely under his control. Devoid of political skill or principle, the generals lacked the mentality or morality to resists. On the day of the death of President Hindenburg in August 1934, the German officers swore a new oath. Their previous oath had been to the fatherland; now it was to a man, Adolph Hitler. It was not until a year later the Nazi emblem became part of their uniform, and the Nazi flag their standard. By a clever process of infiltration into key positions, Hitler seized control of the entire military machine.

We will no doubt hear these generals ask what they could have done about it. We will hear that they were helpless, and that to protect their jobs and families and their own previous lives, they had to follow Hitler's decisions. No doubt this became true, but the generals were a key factor in Hitler's rise to complete power and a partner in his criminal aggressive designs. It is always difficult and dangerous to withdraw from a criminal conspiracy. Never has it been suggested that a conspirator may claim mercy on the ground that his fellow conspirators threatened him with harm should be withdrawn from the plot.

In many respects the spectacle which the German General Staff, and High Command group presents today is the most degrading of all the groups and organizations charged before this court. The bearers of a tradition

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The bearers of a tradition not devoid of valour and honour, they emerge from this war stained both by criminality and ineptude. Attracted by the militaristic and aggressive Nazi policies, the German generals found themselves drawn into adventures of a scope they had not foreseen. From crimes in which almost all of them participated willingly and approvingly were born others in which they participated because they were too ineffective to alter the governing Nazi policies, and because they had to continue collaboration to save their own skins.

Having joined the partnership, the General Staff, and the High Command group planned and carried through manifold acts of aggression which turned Europe into a chanelhouse, and caused the Armed Forces to be used for foul practices, foully executed, of terror, pillage, murder and wholesale slaughter. Let no one be heard to say that the military uniform shall be their cloak, or that they may find sanctuary by pleading membership in the profession to which they are in eternal disgrace.

COLONEL STOREY: If the Tribunal, please, the next subject will be the presentation of supplemental evidence concerning the persecution of the churches as presented by Colonel Wheeler.

COLONEL LEONARD WHEELER JR: The material now to be submitted comprises, first, supplemental proof on the suppression of the churches within Germany - the Evangelical Churchs, the Catholic Church, and the Bibelforscher, or Bible Researchers; and, second acts of suppression in the annexed and occupied territories - Austria, Czechoslovakia and Poland. A large part of this proof will be from the official files of the Vatican.

I now submit to the Court United States trial brief "H" - Supplemental" on "Suppression of the Christian Churches in Germany and in the Occupied Territories", and document Book "H - Supplemental", containing English translation of all the documents referred to in the supplemental brief, or to be referred to in my oral presentation. I'll take up first the supplemental proof on the suppression of the churches in Germany.

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Hitler announced in March 1933, a distinction in his policy toward politics and morals, on the one hand, and religion on the other. I offer in evidence the document number 3387-PS, USA Exhibit No. 566. It is a speech by Hitler to the Reichstag on March 23, 1933, quoted in the Voelkischer Beobachter, March 24, 1933, page one, column seven of the German newspaper. I quote from this speech:

> "While the government is determined to carry through the political and moral purging of our public life, it is creating and insuring prerequisites for a truly religious life. The government sees in both Christian confessions the factors most important for the maintenance of our Folkdom. It will respect agreements concluded between them and the states. However, it expects that its work will treat all other denominations with equal objective justice. However, it can never condone that belonging to a certain denomination, or to a certain race might be regarded as a license to commit or tolerate crimes. The Government will devote its care to the sincere living together of Church and State."

Toward the Evangelical Churches, the Nazi conspirators proceeded at first with caution, and an appearance of legality. They set up a new constitution of the German Evengelical Church, which introduced the innovation of a single Lutheran Reichs Bishop, who assumed all the administrative functions of the old agencies of the Churches. I refer to document 3433-PS, the decree concerning the Constitution of the German Evangelical Church, dated July 14, 1933, appearing in the Reichsgesetzblatt 1933, Part I, page 471, and I request that the Court take judicial notice of it.

It is too well known to require documentation that the new Reichs Bishop, Bishop Mueller, heeded the voice of his Nazi masters. One of his first steps was to maneuver the Evangelical Youth Association into the Hitler Jugend under the defendant von Schirach in December 1933. I refer to document No. 1458-A-PS, 667 already in evidence as part of Document Book D, Transcript for November 23, page 255, It is an excerpt from von Schirach's book, "The Hitler Youth, Idea and Formation".

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By 1935, it had become evident that more than persuation by the Reichs Bishop was necessary. Consequently, the Nazi conspirators promulgated a number of public laws which, under innocent-sounding titles, gradually wove a right net of state control over all the affairs of the Evangelical churches. We ask that the Court take judicial notice of these laws published in the Reichsgesetz-blatt? These may be briefly summarized as follows:

3434-PS, Law concerning Procedure for Decisions in Legal affairs of the Evangelical Church, dated 26 June 1935, signed by Hitler and Frick, appearing in 1935 in Reichsgezetzblatt, Part I, page 774. This gave the Reich Ministry of the Interior - the defendant Frick - when question was raised in the civil lawsuit, sole authority to determine the validity of measures taken in the Evangelical State Church, or in the German Evangelical Church since May 1, 1933.

3435-PS, First Ordinance for execution of the Law concerning Procedure for Decisions in Legal Affairs of the Evangelical Church, dated 3 July 1935, appearing in 1935 Reichsgezetzblatt, Page I, page 851. This implemented the earlier law, by setting up an Office for Decisions with three members appointed by the Reich Ministers of the Interior.

3466-PS, Decree to United the Competences of Reich and Prussia in Church Affairs, dated 16 July 1935, signed by Hitler, published in 1935 Reichsgezetzblatt, Part I, page 1029. This transferred to "Reich Minister without Portfolio Kerrl" the church affairs hitherto handled by the Reich and Prussian Ministries of the Interior and for Science, Education and Training of the Population.

3436-PS, for the safeguarding of the German Evangelical Church, dated 24 September 1935, published in the 1935 Reichsgezetzblatt, Part I, page 1178, signed by Hitler and the Minister for Church affairs, Dr. Kerrl. This empowered the Reich Minister of church affairs to issue ordinances with binding legal force.

3437-PS, Fifth Decree for Execution of the Law for the Safeguarding of the German Evangelical Church, dated 2 December 1935, published in 1935 Reichs-gestzblatt Part I, page 1370. This prohibited "Organs of church leadership" in the Evangelical Churches from filling pastorates, engaging clerical assistants, examining and ordaining candidates of the State Churches, visitation, publishing of the banns, and collection and administration of church dues and assessments.

This series of laws culminated on 26 June 1937, in 3439-PS, the Fifteenth Decree for the Execution of the Law for Security of the German Evangelical Church, dated 25 June 1937, published in 1937 Reichsgesetzblatt Part I, page 697. By

H0030 - 0079

Decree for the Execution of the Law for Security of the German Evangelical Church dated 25 June 1937, published in 1937 Reichsgesetzblatt Part I, page 697. By this, the Reich Minister for Church Affairs (Kerrl) established a Finance Department for the churches to supervise the administration of church property, the budget, and the use of budget funds, and to regulate salaries and allowances of officials, clergy and employees. Thus, before the outbreak of the war, the Nazi conspirators had the Evangelical Churches ties hand and foot physically and administratively, if not spiritually.

Against the Catholic church with its international organization the Nazi conspirators launched a most vigorous and drastic attack again, at first cloaked undef a mantel of cooperation and legality. A Concordat signed by the defendant Von Papen, one of the foremost Catholic laymen in Germany, was concluded between the Reich Government and the Vatican on July 20, 1933. It is printed in the 1933 Reichsgesetzblatt, part 2, page 679, at page 680 and contained in document No. 3280-A-PS, and I will ask the court to take judicial notice of it. I quote Article 1:

"The German Reich guarantees freedom of profession and public practice of the Catholic religion.

"It acknowledges the right of the Catholic Church, within the limit of those laws which are applicable to all, to manage and regulate her own affairs independently, and, within the framework of her own competence, to publish laws and ordinances binding on her members".

Other Articles, which, being matters of common knowledge, I assume need not be read into the record, formulated basic principles such as freedom of the Catholic press, of Catholic education, and of Catholic charitable, professional and other organizations.

H0030-0080

The proposal for the Concordat came from the Reich, not the Vatican. I refer to 3268-PS, USA Exhibit No. 356, excerpts from the Allocution of Pope Pius XII to the Sacred College on June 2, 1945 already read into evidence. I quote from page 1 of the English mimeographed excerpt, page 1 of the German translation, third paragraph, which has not previously been read:

"In Spring 1933 the German Government asked the Holy See to conclude a Concordat with the Reich."

Rely upon the Nazi's assurances, particularly Hitler's speech of March 23, 1933, above quoted -- 3387-PS--the Catholic hierarchy revoked its previous opposition against Catholics becoming members of the National Socialist Party. I offer in evidence document No. 3389-PS, USA Exhibit 566, a pastoral letter, dated March 23, 1933, from the Bishop of Cologne, and I quote from the Voelkischer Beobachter from March 29, 1933, page 2, colums 2 and 3:

"The Official announcement by the Arch-Bishop of Cologne, Cardinal Schulte, in behalf of the Bishops' Conference at Fulda, 28 March 1933.

"The high shepherds of the dioceses of Germany in their dutiful anxiety to keep the Catholic faith pure and to protect the untouchable aims and rights of the Catholic Church have adopted, for profound reasons, during the last years, an oppositional attitude towards the National Socialist movement, through prohibitions and warnings, which was to be in effect as long and as far as those reasons remained valid.

"It now must be recognized that there are official and solemn declarations issued by the highest representative of the Reich government--who at the same time is the authoritarian leader of that movement--which acknowledge the invoilability of the teachings of Catholic faith and the unchangeable tasks and rights of the church, and which expressly assures the full value of the legal pacts concluded between the various German States (Laender) and the church.

"Without lifting the condemnation of certain religious and ethical errors implied in our previous measures, the Episcopage now believes it can entertain the confidence that those prescribed general prohibitions and warnings may not be regarded as necessary any more."

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The Catholic Center Party yielding to those assurances and to pressure was dissolved on July 5, 1933. I refer to 2403-PS already in evidence as part of U. S. Document Book B, an excerpt from Documents of German Politics, an official Nazi publication, a document of which the Court can take judicial notice; and I quote from the last five lines of page 1 of the English translation, appearing on page 55 of the original German text, which states:

"Also the parties of German catholicism, which were supposed to be most deeply rooted, had to bow to the law of the new order. On July 4, 1933, the Bavarian People's party (Document 27) and on July 5, 1933, the Center Party (Document 29) published an announcement of their dissolution."

In spite of these evidences of confidence and cooperation or submission on the part of the Catholics, the Nazi conspirators almost immediately commenced a series of violations of the Concordat. I offer in evidence 3476-PS, USA Exhibit No. 576, being the Papal Encyclical, Mit Brennender Sorge, in German by Pope Pius XI, on March 14, 1937, and ask the Tribunal to take judicial notice of all of it. I quote from the one page English excerpt--

THE PRESIDENT: Did you say 3476 or 3466?

COL. WHEELER: 3476.

THE PRESIDENT: We don't seem to have that.

COL. WHEELER: That may be a mistake, sir, for 3563; the number was changed. Part of it, which is in English in the Document Book, is under 3280-PS. The difficulty is that the German original came in after the translation had been made from another source.

These were found on page 2, paragraph 2 of the German original, which is in evidence now, which was secretly reproduced at Fulda, from copies smuggled into Germany from Rome, and read defiantly from pulpits all over Germany:

"It discloses intrigues which from the beginning had no other aim than a war of extermination. In the furrows in which he had laboured to sow the seeds of true peace, others -- like the enemy in the Holy

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Scripture (Matt. xiii.25) -- sowed the tares of suspicion, discord, hatred, calumny, of secret and open fundamental hostility to Christ and His Church, fed from a thousand different sources and making use of every available means. On them and on them alone and on their silent and vocal protectors rests the responsibility that now on the horizon of Germany there is to be seen not the rainbow of peace but the threatening storm-clouds of destructive religious wars."

"Anyone who has any sense of truth left in his mind and even a shadow of the feeling of justice left in his heart will have to admit

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that, in the difficult and eventful years which followed the Concordat, every word and every action of Ours was ruled by loyalty to the terms of the agreement; but also he will have to recognize with surprise and deep disgust that the unwritten law of the other party has been arbitrary misinterpretation of agreements, evasions of agreements, evacuation of the meaning of agreements, and finally more or less open violation of agreements."

DR. ALFRED SEIDL (COUNSEL FOR HANS FRANK): The representative for the prosecution previously declared that a part of the material that is being here considered and is to be presented in the matter of the opposition to the church has been made available to the defense. The defendant Hans Frank directed a written memorandum to me that contains a question and I should not like to withhold this question from the Tribunal.

The question is as follows:

THE PRESIDENT: None of your question has come through.

DR. SEIDL: I shall repeat my question:

Is the Vatican a signatory to the Charter of the International Military Tribunal?

Secondly, did he dilever the material as co-defendant?

The third question: Does he have to answer to this Tribunal as defendant?

The Defendant Hans Frank justifies these questions with the statement that his further membership in the Catholic Church is dependent on the answers to these questions.

THE PRESIDENT: I think it is desirable that the Tribunal understand your objection.

The first question that you ask is: Is the Vatican a signatory to the Charter?

Is that right?

DR. SEIDL: Yes.

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THE PRESIDENT: Your second question was shat? What was your second question?

DR. SEIDL: Whether the Vatican contributed to the material being here presented as a co-prosecutor.

THE PRESIDENT: You third?

DR. SEIDL: The third question was -- and it is directed first of all to the prosecution -- whether the Vatican recognizes the principles under which this trial is being conducted.

THE PRESIDENT: Whether the Vatican recognizes the principles upon which the trial is being conducted? Will you repeat the question, please.

Repeat the question.

DR. SEIDL: The last question?

THE PRESIDENT: Yes.

DR. SEIDL: Has the Vatican familiarized itself with the material being presented at this trial and does it participate in the principles under which the trial is being conducted as a co-prosecutor?

And, as the reason for his questions, the Defendant Hans Frank states that his further membership in the Catholic Church depends on the answers to these questions.

(Discussion by the Court off the record.)

THE PRESIDENT: In the opinion of the Tribunal, the observations which have just been made by counsel on behalf of the Defendant Frank are entirely irrelevant and any motion which it is so intended to support is denied, and the Prosecution will therefore continue.

COLONEL WHEELER: I now offer in evidence the first of a number of documents which the Vatican has supplied to the prosecution in this case from its own files, and which authoritatively state the acts of suppression of the Church by the Nazi conspirators. This first Vatican document, which deals in part with acts of suppression within Germany, is Document No. 3261-PS, U.S.A. Exhibit No. 568, a verbal note of the

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Secretariate of State of His Holiness the Pope to the German Embassy, dated January 18, 1942. I read the certificate accompanying this document:

"The Vatican, November 13th, 1945.

"I, Domenice Tardini, Secretary of Extraordinary Ecclesiastical Affairs, hereby certify that the attached document consisting of nine printed pages and entitled:

Verbal note of the Secretariate of State of His Holiness to the German

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Embassy (January 18th, 1942)' (pp. 3-11)
is a true and correct translation into the English language from the Italian language of a carbon copy of a document now in the possession of the Secretariate of State of his Holiness, the original of which was dispatched to the German Embassy.

"(Signed) Domenico Tardini"

The paper in the document books, your Honors, is a mimeographed copy of the same printed document which we received from the Vatican. We did not have enough printed documents to put them in the document books.

On page 2 of the English mimeographed text is this verbal note, paragraphs 3 and 4, appearing on page 2 of the German translation. The Papal Secretary of State describes, -- I quote -- "Measures and acts which gravely violate the rights of the Church, being contrary not only to the existing Concordats but to the principles of international law ratified by the Second Hague Conference" --

THE PRESIDENT (Interposing): Did you say you were reading the third paragraph?

COLONEL WHEELER: Paragraphs 3 and 4, yes, sir.

THE PRESIDENT: Page 2?

COLONEL WHEELER: Yes, Your Honor. It is the third paragraph on page 2. It starts in the middle of the paragraph with the last word on the 7th line of the third paragraph.

THE PRESIDENT: It is very difficult for us to find it if you don't tell us it beings in the middle of the paragraph.

COLONEL WHEELER: I'm sorry, sir.

THE PRESIDENT: What does it begin with?

COLONEL WHEELER: The last word of that line is "measures", beginning "yet, despite this keen difficulty," sir.

THE PRESIDENT: Yes, I see.

COLONEL WHEELER: " -- but often -- and this is much more grave -- to the very fundamental principles of divine law both natural and positive."

The next paragraph specifies these measures. I quote.

"Let is suffice to recall in this connection, among other things, the changing of the Catholic State elementary schools into undenominational schools; the permanent or temporary closing of many minor seminaries, of not a few

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major seminaries and of some theological faculties; the suppression of almost all the private schools and of numerous Catholic boarding schools and colleges; the repudiation, decided unilaterally, of financial obligations which the State, Municipalities, etc. had towards the Church; the increasing difficulties put in the way of the activity of the religious Orders and Congregations in the spiritual cultural and social field and above all the suppression of Abbeys, monastaries, convents and religious houses in such great numbers that one is led to infer a deliberate intention of rendering impossible the very existence of the Orders and Congregations in Germany."

The Nazis did not overlook other sects or denominations in their efforts to suppress Christian religion in Germany. They persecuted the "Bibelforscher" or Bible Research --

THE PRESIDENT: Perhaps, as you are going to another church, it would be better to break off until tomorrow morning.

(Whereupon at 1700 hours the hearing of the Tribunal adjourned to reconvene at 1000 hours, January 8, 1946.)